S. Hrg. 101-607

IMMIGRATION REFORM

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 358

A BILL TO AMEND THE IMMIGRATION AND NATIONALITY ACT TO CHANGE THE LEVEL, AND PREFERENCE SYSTEM FOR ADMISSION, OF IMMIGRANTS TO THE UNITED STATES, AND TO PROVIDE FOR ADMINISTRATIVE NATURALIZATION, AND FOR OTHER PURPOSES

AND

S. 448

A BILL TO AMEND THE IMMIGRATION AND NATIONALITY ACT TO CHANGE THE LEVEL, AND PREFERENCE SYSTEM FOR ADMISSION, OF IMMIGRANTS TO THE UNITED STATES

MARCH 3, 1989

Serial No. J-101-3

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
27-931 WASHINGTON : 1990

5521-28

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

COMMITTEE ON THE JUDICIARY

JOSEPH R. BIDEN, Jr., Delaware, *Chairman*

EDWARD M. KENNEDY, Massachusetts
ROBERT C. BYRD, West Virginia
HOWARD M. METZENBAUM, Ohio
DENNIS DeCONCINI, Arizona
PATRICK J. LEAHY, Vermont
HOWELL HEFLIN, Alabama
PAUL SIMON, Illinois

STROM THURMOND, South Carolina
ORRIN G. HATCH, Utah
ALAN K. SIMPSON, Wyoming
CHARLES E. GRASSLEY, Iowa
ARLEN SPECTER, Pennsylvania
GORDON J. HUMPHREY, New Hampshire

Mark H. Gitenstein, *Chief Counsel*
Diana Huffman, *Staff Director*
Dennis W. Shedd, *Minority Chief Counsel*

Subcommittee on Immigration and Refugee Affairs

EDWARD M. KENNEDY, Massachusetts, *Chairman*

PAUL SIMON, Illinois

ALAN K. SIMPSON, Wyoming

Jerry M. Tinker, *Staff Director*
Carolyn P. Osolinik, *Chief Counsel*
Richard W. Day, *Minority Counsel*

CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

Page

Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts, chairman of the subcommittee 1

Simpson, Hon. Alan K., a U.S. Senator from the State of Wyoming 113

Simon, Hon. Paul, a U.S. Senator from the State of Illinois 146

PROPOSED LEGISLATION

S. 358, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes 3

S. 448, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States 77

CHRONOLOGICAL LIST OF WITNESSES

Panel consisting of Alan C. Nelson, Commissioner, Immigration and Naturalization Service; Joan M. Clark, Assistant Secretary for Consular Affairs, Department of State; and Eugene K. Lawson, Deputy Under Secretary, Bureau of International Labor Affairs, U.S. Department of Labor 217

Statement of Eleanor Chelimsky, Assistant Comptroller General, Program Evaluation and Methodology Division, U.S. General Accounting Office, accompanied by Bob York, Study Director, and Eric Larson, Project Manager.. 352

Panel consisting of Cecilia Munoz, senior immigration policy analyst, National Council of La Raza; Melinda C. Yee, executive director, Organization of Chinese Americans, Inc.; Dan Stein, executive director, Federation for American Immigration Reform; and Frank D. Kittredge, president, National Foreign Trade Council, on behalf of the Business Immigration Coalition, accompanied by Michael Copeland, Procter & Gamble Co 399

ALPHABETICAL LIST AND MATERIAL SUBMITTED

Chelimski, Eleanor:
  - Testimony 352
  - Prepared statement 361
    - Letter to Senator Edward M. Kennedy, Chairman, Subcommittee on Immigration and Refugee Affairs, from Eleanor Chelimski, Assistant Comptroller General, GAO, May 1, 1989 391
    - Responses to additional questions submitted by Senator Edward M. Kennedy 392

Clark, Joan M.:
  - Testimony 226
  - Prepared statement 228
    - Letter to Senator Edward M. Kennedy from Joan M. Clark, Department of State, Assistant Secretary for Consular Affairs, April 21, 1989 253
    - Responses to additional questions submitted by:
      - Senator Edward M. Kennedy 254
      - Senator Paul Simon 263

Kittredge, Frank D.:
  - Testimony 463

Kittredge, Frank D.—Continued

Page

- Prepared statement 465
  - Appendix to prepared statement 481
  - Letter to Senator Edward M. Kennedy from Frank D. Kittredge, May 1, 1989 491

Kennedy, Hon. Edward M.: Excerpts from Workforce 2000, "Work and Workers for the Twenty-First Century," by William B. Johnston and Arnold E. Packer, Hudson Institute, Indianapolis, IN, June 1987 304

Lawson, Eugene K.:

- Testimony 278
- Prepared statement 281

Munoz, Cecilia:

- Testimony 399
- Prepared statement 403
  - Letter to Senator Edward M. Kennedy from Cecilia Munoz, senior immigration policy analyst, NCLR, March 31, 1989 417
  - Responses to additional questions submitted by:
    - Senator Edward M. Kennedy 418
    - Senator Paul Simon 419

Nelson, Alan C.:

- Testimony 217
- Prepared statement 221
  - Washington Post article, "U.S. Audit Finds INS In Disarray," by Henry Allen, March 3, 1989 151
  - Memorandums to Dick Thornburgh, Attorney General, from Alan C. Nelson, Commissioner, INS:
    - Audit of the Immigration and Naturalization Service, March 2, 1989 152
    - Response to audit of the Immigration and Naturalization Service, March 9, 1989 156
  - Immigrants admitted by class of admission and foreign state of chargeability, fiscal year 1988 312
  - Active immigrant visa applicants registered at consular offices, as of January 1988 344

Simon, Hon. Paul:

- Statement of Tom Daschle, a U.S. Senator from the State of South Dakota, March 3, 1989 116
- Statement of the American Jewish Committee on Legal Immigration Reform, March 3, 1989 118
- Statement of Harry Pachon, Ph.D., national director, NALEO, March 3, 1989 124
- Statement of Sean Minihane, national chairman, Irish Immigration Reform Movement, March 2, 1989 130
- Statement of Howard Hom, Esq., on behalf of the Pacific Leadership Council, Los Angeles, CA, March 3, 1989 138

Stein, Dan:

- Testimony 442
- Prepared statement 445
  - Letter to Senator Edward M. Kennedy from Dan Stein, executive director, Federation for American Immigration Reform, April 14, 1989 460
  - Response to an additional question submitted by Senator Edward M. Kennedy 461

Yee, Melinda C.:

- Testimony 422
- Prepared statement 425
  - Letter to Senator Edward M. Kennedy from Melinda C. Yee, executive director, Organization of Chinese Americans, Inc., May 15, 1989 436
  - Additional questions submitted by:
    - Senator Edward M. Kennedy 437
    - Senator Alan K. Simpson 438
    - Senator Paul Simon 439
  - Responses to additional questions 440

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

Page

Statement of the National Restaurant Association concerning legal immigration reform ... 501

Statement of the AFL-CIO, "Workers and Jobs in the Year 2000," by Markley Roberts, Economic Research Department ... 509

Statement of the Congressional Research Service, "Analysts' Thoughts About Future Labor Needs," by Linda LeGrande, Specialist in Labor Economics ... 513

Letter to Michael J. Myers, Esq., from Bernard Z. Brown, president, Coalition of Apparel Industries in California, March 3, 1989 ... 516

Statement of Charles C. Foster, chairman, Coordinating Committee on Immigration Law, American Bar Association ... 519

Statement of the American Immigration Lawyers Association concerning legal immigration reform ... 530

Statement of Rose M. Hanes, executive director, Population-Environment Balance, Inc ... 542

Letter to Senator Edward M. Kennedy from John P. Thomas, executive director, National Association of Counties, March 14, 1989 ... 549

Letter with enclosures to Senator Edward M. Kennedy from Robert M. Rosenzweig, president, Association of American Universities ... 551

Joint statement of the Asian American Legal Defense and Education Fund, Asian Law Alliance, Asian Law Caucus, Asian Pacific American Legal Center of Southern California, Na Lolio No Na Kanaka—Lawyers for the People of Hawaii, and Nihonmachi Legal Outreach ... 556

  Article, "Historical Discrimination in the Immigration Laws" ... 586

Letter to Senator Edward M. Kennedy from Rev. Joseph A. Cogo, executive secretary, American Committee on Italian Migration, May 30, 1989 ... 590

Statement of Rev. Joseph A. Cogo on behalf of the American Committee on Italian Migration ... 591

IMMIGRATION REFORM

FRIDAY, MARCH 3, 1989

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:42 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Edward M Kennedy (chairman of the subcommittee) presiding.

Also present: Senators Simpson and Simon.

Staff present: Jerry Tinker, staff director; Michael Myers, counsel; Kay Anske, staff consultant; Richard Day, minority staff director; and Carl Hampe, minority counsel.

OPENING STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. We will come to order.

Today's hearing resumes the subcommittee's effort to bring long-needed reform to our current system of admitting immigrants to our country.

We are picking up where Congress left off last year. Senator Simpson and I have reintroduced, without change, the immigration reform bill the Senate adopted on March 15, 1988, by a vote of 88 to 4.

Although the House failed to act, we believe the goals of our bill deserve the same strong support of the Senate this year, not only because the issues haven't changed, but because the need for genuine-reform remains as urgent today as last year and the year before that.

Congress has been wrestling with this issue for nearly 8 years since the Select Commission on Immigration and Refugee Policy, a Commission upon which Senator Simpson and I served, issued its recommendations in 1981. Those recommendations still form the basis for the legislation we have sponsored again this year.

Over two decades ago, Congress passed landmark legislation that brought about sweeping changes in our legal immigration system through the elimination of the discriminatory national origins quota system.

That legislation, the 1965 amendments to the Immigration and Nationality Act, has operated well over the years and has gone far in redressing racial and other injustices in the system. But the system is not perfect and was never meant to be frozen in concrete. Over the years, some unforeseen problems have arisen.

One of the issues that we will look at this morning and one that I am particularly concerned about is the question of how we expand independent immigration and reopen our doors to potential immigrants who are unable to benefit from current immigration law. It is a question of how we correct an unexpected imbalance stemming from the 1965 Act—the inadvertent restriction on immigration from the old seed sources of our heritage.

The pending legislation will correct this shortcoming without departing from the principles of fairness and equity of the 1965 law. It protects the principle of family reunification by adding new numbers, up to 100,000 new members, that will create a system by which new sources of immigration can once again have an opportunity to contribute to our Nation.

This issue has been thoroughly studied, from the 16 regional hearings conducted by the Select Commission, to innumerable expert consultations both with the Select Commission as well as with this subcommittee over recent years.

In addition, this subcommittee has held 25 days of hearings on the issue of legal immigration reform during the last few years. In the last Congress alone, we held 2 days of hearings and heard testimony from 19 witnesses representing a full spectrum of views.

Today, we are doing the same. We want to hear constructive suggestions because while I strongly support the goals of our bill, I am not rigid in my view as to how we best can achieve them. But I do believe this is the time to act to narrow our differences and move forward.

From the earliest days of our country, America has been a beacon of hope and opportunity to peoples in other lands. We are rightfully proud of our immigrant heritage and we must do all we can to preserve it, to build upon it, and to make it serve the interests of our people and our country. I believe our bill accomplishes these goals.

[Texts of Senate bill 358 and Senate bill 448 follow:]

II

101st CONGRESS
1st Session

S. 358

To amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 7 (legislative day, January 3), 1989

Mr. Kennedy (for himself and Mr. Simpson) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMMIGRATION ACT OF 1989

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) Short Title.—This title may be cited as the "Immigration Act of 1989".

(b) REFERENCES IN ACT.—Except as specifically provided in this title, whenever in this title an amendment or repeal is expressed as an amendment to, or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 102. NATIONAL LEVEL OF IMMIGRATION.

(a) WORLDWIDE LEVEL OF IMMIGRATION.—(1) Section 201 (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family connection immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

"(2) independent immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

"(3) for fiscal years 1991, 1992, or 1993, qualified backlog immigrants as described in section 203(a)(4)(B), not to exceed 30,000 in any fiscal year.

"(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

"(B) Aliens who are admitted under section 207(c) pursuant to a numerical limitation established under section 207(b).

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Aliens who are immediate relatives. For purposes of this clause, the term 'immediate relatives' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(C) Aliens who are admitted under section 207(c) pursuant to a numerical limitation established under section 207(a) and aliens who are granted asylum under section 208.

"(c) WORLDWIDE LEVEL OF FAMILY CONNECTION IMMIGRANTS.—(1) The worldwide level of family connection immigrants under this subsection for a fiscal year is equal to—

"(A) 440,000, minus

"(B) the number computed under paragraph (2), plus

"(C) the number (if any) computed under paragraph (3).

"(2) The number computed under this paragraph for a fiscal year is the sum of the number of aliens described in subparagraph (A) or (B) of subsection (b)(2) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

"(3) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1992) is the difference (if any) between the maximum number of visas which may be issued under subsection (a)(2) (relating to independent immigrants) during the previous fiscal year and the number of visas issued under that subsection during that year.

"(d) WORLDWIDE LEVEL OF INDEPENDENT IMMIGRANTS.—(1) The worldwide level on independent immigrants under this subsection for a fiscal year is equal to—

"(A) 150,000, minus

"(B) for each of fiscal years 1991, 1992, and 1993, 30,000, plus

"(C) the number computed under paragraph (2).

"(2) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1992) is the difference (if any) between the maximum number of visas which may be issued under subsection (a)(1) (relating to family connection immigrants) during the previous fiscal year and the number of visas issued under that subsection during that year.

"(e) REPORT ON, AND REVISION OF, WORLDWIDE LEVEL OF IMMIGRATION.—(1) In January before the beginning of fiscal year 1994 (and before each succeeding fiscal year thereafter), the Attorney General, in consultation with the Secretary of Labor, the Secretary of State, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the Secretary of Housing and Urban Development, shall prepare and transmit to the President and to the Judiciary Committees of the Senate and of the House of Representatives a report discussing the effect of immigration on the United States. The report shall consider—

"(A) the requirements of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members;

"(B) the impact of immigration on labor needs, employment, and other economic and domestic conditions in the United States;

"(C) the impact of immigration with respect to demographic and fertility rates and resources and environmental factors; and

"(D) the impact of immigration on the foreign policy and national security interests of the United States.

The report for fiscal year 1994 (and each third fiscal year thereafter) shall include a discussion, based upon such considerations, of the need (if any) to revise the number specified in subsection (c)(1)(A) or the number specified in subsection (d)(1)(A) for the 3-fiscal year period beginning with the first fiscal year following transmittal of the report. Beginning with fiscal year 1994, and every three fiscal years thereafter, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall hold hearings on the findings of the latest such report.

"(2) In March before the beginning of fiscal year 1994 (and of each third fiscal year thereafter), the President shall, after considering the corresponding report transmitted under paragraph (1) and after soliciting the views of members of the Committees on the Judiciary of the House of Representatives and of the Senate, determine whether or not the number specified in subsection (c)(1)(A) or the number specified in subsection (d)(1)(A) should be changed for the 3-fiscal year period beginning with the next following fiscal year, and, if so, which number should apply instead of the number specified in the respective subsection for the fiscal years of that period. The President shall transmit such determination to the Congress by not later than March 31 before the fiscal year involved and shall deliver such determination to both Houses of Congress on the same day and while each House is in session.

"(3)(A) Notwithstanding the provisions of subsections (c)(1)(A) and (d)(1)(A), if the number transmitted in a determination of the President with respect to subsection (c)(1)(A) or subsection (d)(1)(A) for the fiscal years of a 3-fiscal year period—

"(i) is not less than 95 percent, nor more than 105 percent, of the number specified in that respective subsection, unless the Congress, by not later than August 31 following the date of the transmittal, enacts a joint resolution the substance of which disapproves the change with respect to the number for that respective subsection for the fiscal years of that 3-fiscal year period, the number so transmitted shall take effect and apply, instead of the number specified in that respective subsection, during that period; or

"(ii) is less than 95 percent, or more than 105 percent, of the number specified in that respective subsection, if the Congress, by not later than August 31 following the date of the transmittal, enacts a joint resolution the substance of which approves the change with respect to the number specified in that respective subsection for the fiscal years of that 3-fiscal year period, the number so transmitted shall take effect and apply, instead of the number specified in that respective subsection, during that period.

"(B) For purposes of this paragraph, a number transmitted by the President under paragraph (2) which takes effect and applies under this paragraph with respect to subsection (c)(1)(A) or (d)(1)(A) shall thereafter be deemed to be the number specified in that same subsection.

"(4) Paragraphs (5), (6), and (7) are enacted—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each respective House, but applicable only with respect to the procedure to be followed in the case of joint resolutions described in paragraph (5), and supersede the other rules only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(5) For purposes of this subsection, the term 'joint resolution', with respect to a change in number transmitted by the President under paragraph (2) for the fiscal years of a three-fiscal-year period, in the case described—

"(A) in paragraph (3)(A)(i), means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: 'That Congress, pursuant to subsection (e)(3)(A)(i) of section 201 of the Immigration and Nationality Act, disapproves the change proposed by the President in the number specified under subsection of that section for the three fiscal years transmitted to the Congress by the President on ', the blank spaces therein to be filled appropriately; or

"(B) in paragraph (3)(A)(ii), means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: 'That Congress, pursuant to subsection (e)(3)(A)(ii) of section 201 of the Immigration and Nationality Act, approves the change proposed by the President in the number specified under subsection of that section for the three fiscal years transmitted to the Congress by the President on ', the blank spaces therein to be filled appropriately.

"(6)(A) No later than the first day of session following the day on which a determination is transmitted to the House of Representatives and to the Senate under paragraph (2), which determination provides for a change in a number specified in subsection (c)(1)(A) or (d)(1)(A) for a fiscal year, a joint resolution (as defined in paragraph (5)) with respect to each such change shall be introduced (by request) in each House by the chairman of the Committee on the Judiciary of that House, or by a Member or Members of the House designated by such chairman.

"(B)(i) Each joint resolution introduced in a House shall be referred to the Committee on the Judiciary of the respective House. The committees shall make their recommendations to the respective House not later than June 15 following the date of introduction.

"(ii) If the Committee has not reported such a joint resolution with respect to a change by such date, it is in order to move to discharge the Committee from further consideration of the joint resolution, except that no motion to discharge shall be in order after the Committee has reported a joint resolution with respect to the same change.

"(iii) A motion to discharge under clause (ii) may be made only by a Member favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, in the Senate by the majority leader and the minority leader or their designees and in the House of Representatives by the chairman of the Committee on the Judiciary and the ranking minority member of such committee or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C)(i) When the Committee has reported, or been discharged from consideration of, a joint resolution, a motion to proceed to the consideration of the joint resolution shall be highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(ii) Debate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided in the Senate between, and controlled by, the majority leader and the minority leader or their designees and to be equally divided in the House of Representatives between individuals favoring and individuals opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which a joint resolution is passed or rejected shall not be in order.

"(iii) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

"(iv) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

"(D) If, prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same change transmitted by the President in a number specified under a subsection for a fiscal year, then—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.".

(2) The item in the table of contents relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

(A) by striking "(a) No person" and inserting "(a)(1) Except as specifically provided in paragraph (2) and in section 101(a)(27), 201(b)(2)(A)(i), and 203, no person",

(B) by striking ", except as specifically" and all that follows through "following fiscal year", and

(C) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraphs (B) and (C), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsection (c) of section 201 (relating to family connection immigrants) in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in that fiscal year.

"(B) If for fiscal year 1991 or a succeeding fiscal year the number of aliens described in subparagraph (A) or (B) of section 201(b)(2) (relating to immediate relatives and similar individuals) who are natives of a particular foreign state or dependent area and who are issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the fiscal year exceeds the greater of—

"(i) the numerical level computed under subparagraph (A) for that state for that fiscal year, or "(ii) the level of such immigration of natives of that foreign state in fiscal year 1989 or fiscal year 1990 (whichever is greater),

then the numerical level applicable to that foreign state or dependent area in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess, except that such reduction shall not exceed one-half of the numerical level otherwise provided without regard to this subparagraph.

"(C) If, because of the application of subparagraph (A) with respect to one or more foreign states, the number of visas available under section 201(c) for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, subparagraph (A) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.

"(3)(A) Subject to subparagraph (B), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsection (d) of section 201 (relating to independent immigrants) in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in the fiscal year.

"(B) If, because of the application of subparagraph (A) with respect to one or more foreign states or dependent areas, the number of visas available under section 201(d) for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, subparagraph (A) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.";

(2) in subsection (b), by striking "the numerical limitation set forth in the proviso to subsection (a) of this section" each place it appears and inserting "a numerical level established under subsection (a)";

(3) in subsection (c)—

(A) by striking "other than" and all that follows through "section 201(b)" and inserting "other than a special immigrant, as defined in section 101(a)(27), or an alien described in section 201(b)(2)(A)(i)", and

(B) by striking "section 202(a)" and all that follows through the end and inserting "subsection (a)(1), to the foreign state"; and

(4) Section 202(e) is amended to read as follows:

"(e) Whenever the maximum number of visas have been made available under subsection (a)(2) to natives of any single foreign state or to any dependent area, then in the next following fiscal year a number of visas, not to exceed the number specified in subsection (a)(2) for a foreign state or a dependent area, as the case may be, shall be made available and allocated for such state or such area for the same classes of aliens described in, and the same percentages specified in, paragraphs (1) through (4) of section 203(a).".

SEC. 103. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) In General.—(1) Section 203 (8 U.S.C. 1153) is amended to read as follows:

"ALLOCATION OF IMMIGRANT VISAS

"Sec. 203. (a) Preference Allocation for Family Connection Immigrants.—Aliens subject to the worldwide level specified in section 201(c) for family connection immigrants shall be allotted visas as follows:

"(1) Unmarried sons and daughters of citizens.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 15 percent of such worldwide level, plus any visas not required for the class specified in paragraph (4).

"(2) Spouses and unmarried sons and unmarried daughters of permanent resident aliens.—Qualified immigrants who are—

"(A) the spouses of aliens lawfully admitted for permanent residence, or

"(B) the unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence, if the sons or daughters—

"(i) are under 26 years of age, or

"(ii)(I) as of the date of the enactment of the Immigration Act of 1989, had a petition filed on their behalf for preference status under section 203(a)(2) (as in effect on such date) by reason of such relationship and such petition was subsequently approved, and

"(II) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas in a number not to exceed 65 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) NEVER MARRIED BROTHERS AND SISTERS OF CITIZENS AND PREVIOUS FIFTH PREFERENCE.—Qualified immigrants—

"(A) who are the never married brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, and

"(B) who—

"(i) as of the date of enactment of the Immigration Act of 1989 had a petition filed on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date and such petition was subsequently approved, and

"(ii) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas, in addition to visas otherwise allocated under section 201(a)(3), in a number not to exceed 10 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3). For purposes of this paragraph, the term 'never married', with respect to an individual, means an individual who has never been married or whose marriage was annulled or otherwise legally determined never to have had effect.

"(b) PREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for independent immigrants in a fiscal year shall be allocated visas as follows:

"(1) SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 5 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof).

"(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—(A) Visas shall be made available next, in a number not to exceed 23 percent of such worldwide level to qualified immigrants who are members of the professions holding advanced degrees or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

"(B) The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

"(C) In determining under subparagraph (A) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(3) WORKERS.—(A) Visas shall be made available next, in a number not to exceed 23 percent of such worldwide level, to the following two classes of aliens:

"(i) Qualified immigrants who are capable, at the time of petitioning, of performing skilled labor (requiring at least 2 years training or experience), or unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(ii) Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

"(B) An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(4) EMPLOYMENT CREATION.—Visas shall be made available next, in a number not to exceed 4 percent of such worldwide level or 5,000, whichever is greater, to any qualified immigrant who is seeking to enter the United States for the purpose of engaging in a new commercial enterprise which the alien has established and in which such alien has invested or, is actively in the process of investing, capital, in an amount not less than $1,000,000, and which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence (other than the spouse, sons, or daughters of such immigrant). The Attorney General, in consultation with the Secretary of Labor and the Secretary of State, may prescribe regulations increasing the dollar amount of the investment necessary for the issuance of a visa under this paragraph.

"(5) SELECTED IMMIGRANTS.—(A) Visas authorized in any fiscal year under section 201(d), less those required for issuance to the classes specified in paragraphs (1), (2), (3), and (4), shall be made available to qualified immigrants who attain a score of not less than 50 points, based on the point assessment system described in subparagraph (B).

"(B) The point assessment system referred to in subparagraph (A) shall accord points based on criteria as follows:

"(i) Age (10 points).—For an alien who (as of the date of filing a petition) is—

"(I) at least 21 years of age but has not attained 36 years of age, 10 points; or

"(II) at least 36 years of age, but has not attained 45 years of age, 5 points.

"(ii) Education (25 points).—For an alien who (as of the date of filing a petition)—

"(I) has completed successfully grade school through high school or its educational equivalent (as determined by the Secretary of Education), 10 points;

"(II) has been awarded a bachelors' degree or its equivalent (as determined by the Secretary of Education), 10 additional points; and

"(III) has been awarded a graduate degree, an additional number of points (up to 5 additional points) to be determined by the Secretary of Education based on the level of the degree.

"(iii) ENGLISH LANGUAGE ABILITY (20 POINTS).—For an alien who certifies, upon the date of filing a petition, subject to verification by examination after the date of selection, that he has an understanding of the English language and the ability to communicate in such language, 20 points.

"(iv) OCCUPATIONAL DEMAND (20 POINTS).—For an alien who is in an occupation for which the Secretary of Labor determines (before the fiscal year involved)—

"(I) there will be increased demand in the United States for individuals in the occupation in the fiscal year, 10 points, and

"(II) there is a present or there will be a future shortage of individuals in the United States to meet the need in the occupation in the United States in the fiscal year, 5 or 10 points.

"(v) Occupational training and work experience (20 points).—To the extent the alien has additional training, work experience, or both, as determined by the Secretary of Labor, in the occupation described in clause (iv), 10 or 20 points, such points multiplied by the number of points awarded under clause (iv) divided by 20.

"(C) The point assessment system described in subparagraph (B) shall be established by regulation by the Secretary of State in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education.

"(c) Treatment of Family Members.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b) (except for subsection (b)(5)) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(d) Order of Consideration.—(1) Immigrant visas made available under subsection (a) or (b) (other than paragraph (5)) or under section 201(a)(3) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General (or in the case of special immigrants under section 101(a)(27)(D), with the Secretary of State) as provided in section 204(a).

"(2) Of the immigrant visa numbers made available under subsection (b)(5) (relating to selected immigrants) in a fiscal year—

"(A) 20 percent of such numbers shall be issued to eligible qualified immigrants who attain a score of at least 80 points on the assessment system described in subsection (b)(5)(B) with respect to petitions filed for the fiscal year involved, to be chosen in the random order described in clause (B); and

"(B) 80 percent of such numbers shall be issued to eligible qualified immigrants with a qualifying score on such system strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.

"(e) PRESUMPTION.—Every immigrant shall be presumed not to be described in subsection (a) or (b) of this section, section 101(a)(27), or section 201(b)(2), until the immigrant establishes to the satisfaction of the consular officer and the immigration officer that the immigrant is so described. In the case of any alien claiming in his application for an immigrant visa to be described in section 201(b)(1) or in subsection

(a) or (b) of this subsection, the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

"(f) LISTS.—For purposes of carrying out his responsibilities in the orderly administration of this section, the Secretary of State may make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories under subsections (a) and (b), and to rely upon such estimates in authorizing the issuance of visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within 2 years following the date of notification of the availability of such visa that such failure to apply was due to circumstances beyond his control.".

(2) Nothing in this subsection may be construed as continuing the availability of visas under section 203(a)(7), as in effect before the date of enactment of this Act.

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204(a) (8 U.S.C. 1154(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3), and

(2) by striking "(a)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification. An alien may be classified as an alien described in paragraphs (2), (3), or (4) of section 203(a) with respect to a specific fiscal year on the basis of a petition filed in a previous fiscal year only if the alien has filed with the Attorney General a notice of continuing intent to be admitted to the United States as an immigrant under such section within the 2 fiscal years immediately previous to the specific fiscal year involved.

"(C)(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(1) (or any person on behalf of such an alien) (relating to special immigrants) may file a petition with the Attorney General for such classification.

"(ii) Aliens claiming status as a special immigrant under section 101(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.

"(D) Any alien desiring to be classified under section 203(b)(2) (or any person on behalf of such an alien) (relating to professionals) may file a petition with the Attorney General for such classification.

"(E) Any person desiring and intending to employ within the United States an alien entitled to classification under paragraph (2) or (3) of section 203(b) (relating to professionals and skilled workers) may file a petition with the Attorney General for such classification.

"(F) Any alien desiring to be classified under section 203(b)(4) (relating to employment creation) may file a petition with the Attorney General for such classification.

"(G)(i) Any alien desiring to be provided an immigrant visa under section 203(b)(5) (relating to selected immigrants) may file a petition at the place and time determined by the Secretary of State by regulation. While the place of filing may be designated inside the United States, the petitioner shall be physically outside the United States when submitting the petition. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

"(ii)(I) The Secretary of State may designate a period for the filing of petitions with respect to visas which may be issued under section 203(b)(5) during either of the next two fiscal years beginning after the close of such period.

"(II) Aliens who qualify, through random selection, for a visa under section 203(b)(5) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

"(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

"(iii) A petition or registration under this subparagraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

"(iv) The petition under this subparagraph shall include a certification in writing at the time of filing a petition that all information contained within the petition is true and correct to the best of the petitioner's knowledge, and any willful misrepresentation of the facts or statements included in the petition shall be deemed a violation of section 212(a)(19).

"(2) On or after October 1, 1990, an alien who—

"(A) previous to being admitted as, or otherwise provided the status of, an alien lawfully admitted for permanent residence was married to an individual, and

"(B) is so admitted, or provided such status, as a child or as the unmarried son or unmarried daughter of a citizen of the United States or of an alien lawfully admitted for permanent residence,

may not file a petition under this section on behalf of any alien to whom the alien was married previous to being so admitted or provided such status.".

(c) REVISION OF LABOR CERTIFICATION.—(1) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(14) Aliens seeking to enter the United States to perform skilled labor unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient qualified workers (or equally qualified workers in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or arts) available in the United States in the positions in which the aliens will be employed; and (B) the employment of aliens in such positions will not adversely affect the wages and working conditions of workers in the United States. The Secretary of Labor may, in his discretion, substitute for the determination and certification described in clause (A) of the preceding sentence a determination and certification that there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled labor. In making either determination under this paragraph, the Secretary of Labor may use labor market information without regard to the specific job opportunity for which certification is requested, but if such determination is adverse, the Secretary of Labor shall make a certification with regard to the specific job opportunity if the employer submits evidence that such specific certification would result in a different determination. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to immigrants seeking admission under paragraph (2) or (3) of section 203(b), except that this paragraph shall not apply to any alien for whom a waiver has been made under section 203(b)(2)(B);".

(2) The Secretary of Labor shall conduct a comprehensive study to determine whether the process of obtaining an immigrant labor certification under section 212(a)(14) of the Immigration and Nationality Act, as amended by this title, has been simplified or otherwise expedited. In conducting this study, the Secretary shall hold public hearings. Not later than March 31, 1993, the Secretary of Labor shall prepare and transmit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report containing the findings of such study and including any recommendations of other relevant agencies of the Federal Government with respect to such findings.

SEC. 104. DETERRING IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.

(a) CONDITIONAL BASIS FOR PERMANENT RESIDENT STATUS BASED ON ESTABLISHMENT OF COMMERCIAL ENTERPRISES.—Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN

"SEC. 218. (a) IN GENERAL.—

"(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien entrepreneur (as defined in subsection (f)(1)), spouse, and child (as defined in subsection (f)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

"(2) NOTICE OF REQUIREMENTS.—

"(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien entrepreneur, spouse, or child obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such an entrepreneur, spouse, or child respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

"(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such an entrepreneur, spouse, or child, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsection (c)(1).

"(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such an entrepreneur, spouse, or child.

"(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING ENTREPRENEURSHIP IMPROPER.—

"(1) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

"(A) the establishment of the commercial enterprise was intended solely as a means of evading the immigration laws of the United States, or

"(B)(i) a commercial enterprise was not established by the alien;

"(ii) the alien did not invest or was not actively in the process of investing the requisite capital; or

"(iii) the alien was not sustaining the actions described in clause (A) or (B) throughout the period of the alien's residence in the United States,

then the Attorney General shall so notify the alien involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien involved as of the date of the determination.

"(2) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

"(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

"(1) IN GENERAL.—In order for the conditional basis established under subsection (a) for an alien entrepreneur, spouse, or child to be removed—

"(A) the alien entrepreneur must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

"(B) in accordance with subsection (d)(3), the alien entrepreneur must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

"(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

"(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

"(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

"(ii) unless there is good cause shown, the alien entrepreneur fails to appear at the interview described in paragraph (1)(B),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

"(B) HEARING IN DEPORTATION PROCEEDING.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

"(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

"(A) IN GENERAL.—If—

"(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

"(ii) the alien entrepreneur appears at the interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90 days of the date of the interview, as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying commercial enterprise.

"(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the alien involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien entrepreneur, spouse, or child as of the date of the determination.

"(D) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying commercial enterprise.

"(d) DETAILS OF PETITION AND INTERVIEW.—

"(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that—

"(A) a commercial enterprise was established by the alien;

"(B) the alien invested or was actively in the process of investing the requisite capital; and

"(C) the alien sustained the actions described in clauses (A) and (B) throughout the period of the alien's residence in the United States.

"(2) PERIOD FOR FILING PETITION.—

"(A) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(B) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

"(C) FILING OF PETITIONS DURING DEPORTATION.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

"(3) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

"(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

"(f) DEFINITIONS.—In this section:

"(1) The term 'alien entrepreneur' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(4).

"(2) The term 'spouse' and the term 'child' mean an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien entrepreneur.".

(b) ADDITIONAL GROUND FOR DEPORTATION.—Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended by inserting before the semicolon at the end thereof the following: ", or (C) is an alien with permanent resident status on a conditional basis under section 218 and has such status terminated under such section".

(c) CRIMINAL PENALTY FOR IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—Section 275 of such Act (8 U.S.C. 1325) is amended by adding at the end thereof the following new subsection:

"(c) Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than $250,000, or both.".

(d) LIMITATION ON ADJUSTMENT OF STATUS.—Section 245 of such Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(f) The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the

United States for permanent residence on a conditional basis under section 218.".

(e) CONFORMING AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 217 the following new item:

"Sec. 218. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children.".

SEC. 105. MISCELLANEOUS CONFORMING AND TECHNICAL CHANGES.

(a) Sections 101(b)(1)(F), 202(a), 202(c), 204(b), 204(e), 216(g)(1)(A), 222(a), 244(d), 245(c)(2), and 245(c)(5) (8 U.S.C. 1101(b)(1)(F), 1152(a), 1152(c), 1154(a)(1), 1154(b), 1154(e), 1186a(g)(1)(A), 1202(a), 1254(d), 1255(c)(2), 1255(c)(5)) are each amended by striking "201(b)" each place it appears and inserting "201(b)(2)(A)(i)".

(b) Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (b)—

(A) by striking "section 203(a) (3) or (6)" and inserting "section 203(b)(3)",

(B) by striking "section 201(b)" and inserting "section 201(b)(2)(A)(i)",

(C) by striking "a preference status under section 203(a)" and inserting "preference under subsection (a) or (b) of section 203",

(D) by inserting "(and, in the case described in section 203(b)(5), specify the point score on the assessment system)" after "approve the petition", and

(E) by striking "The Secretary of State" and inserting "Subject to section 203(b)(5), the Secretary of State";

(2) in subsection (e)—

(A) by striking "preference immigrant under section 203(a)" and inserting "immigrant under subsection (a), (b), or (c) of section 203", and

(B) by striking "section 201(b)" and inserting "section 201(f)";

(3) by striking subsection (f);

(4) by redesignating subsections (g) and (h) as (f) and (g), respectively;

(5) in subsection (f)(1), as redesignated by paragraph (4), by inserting "(as in effect before the date of the enactment of the Immigration Act of 1989)" after "203(a)(4)"; and

(6) in subsection (g), as redesignated by paragraph (4), by striking "preference status" and inserting "status under section 203(a)(2)".

(c) Section 212(a)(32) (8 U.S.C. 1182(a)(32)) is amended by striking "203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "203(b) (2), (3), and (5)".

(d) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking "201(a) or 202(a)" and inserting "201(c) or 202(a)(2)(A)".

(e) Section 245 (8 U.S.C. 1255) is amended—

(1) in subsection (b), by striking "203(a)" and inserting "203", and

(2) in subsection (c), by redesignating clause (5) as clause (4) and by inserting before the period at the end the following: ", or (5) an alien who is applying for adjustment of status to preference status under section 203(b)(5)".

(f)(1) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(2) Section 1614(a)(1)(B) of the Social Security Act is amended by striking "section 203(a)(7) or".

(g) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended by inserting before the period at the end the following: "(as in effect before October 1, 1990) or by reason of the relationship described in section 203(a)(2)(B), 203(a)(3), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)".

SEC. 106. USER FEES.

Section 286 (8 U.S.C. 1356) is amended by adding at the end thereof the following new subsections:

"(m) VISA FEES FOR IMMIGRANTS.—The Secretary of State shall provide for a schedule of fees to be charged for the filing of a petition for any and all immigrant categories under sections 201(a)(3), 201(b)(2)(A)(i), and 203 (a) and (b). The fees established under this subsection shall be sufficient to cover administrative and other expenses incurred in connection with the processing of petitions for any and all immigrant categories filed under sections 201(a)(3), 201(b)(2)(A)(i), and 203 (a) and (b).

"(n) CREDITABLE FEES.—Notwithstanding sections 1 and 2 of the Act of June 4, 1920, as amended (41 Stat. 750; 22 U.S.C. 214) or any other provision of law, up to $20,000,000 in fees collected by consular officers for issuance of visas and for execution of applications for visas shall be credited to a Department of State account which shall be available only for the payment of the expenses of research, development, equipment, and automation of visa and passport functions, including related software. Each fiscal year thereafter additional amounts of such consular fees may be credited to such account, except that not more than $20,000,000 of such fees may be available for such purposes in any one fiscal year.".

SEC. 107. REPORT ON CUBAN ENTRY INTO UNITED STATES.

(a) Congress recognizes that resumption of the 1984 Mariel Agreement between the United States and Cuba will have a disproportionate impact on particular regions of the United States, notably south Florida. In anticipation of this impact and the increase in demand for certain services, Congress directs the Attorney General, in conjunction with the Secretary of State, to prepare and transmit to the appropriate committees of Congress a report detailing the number of Cubans granted preference visas.

(b) STUDY AND REPORT.—The Attorney General and the Secretary of State shall—

(1) prepare and transmit a detailed projection of the number of Cubans who have applied or have been granted preference immigration visas for entry into the United States; and

(2) such information including the age, occupation, number of dependents, and special medical needs of those Cubans who have applied or have been granted preference immigration visas for entry into the United States.

(c)(1) REPORT DATE.—The Attorney General, in conjunction with the Secretary of State, shall submit the report—

(A) during the first quarter of the fiscal year following enactment of this Act; and

(B) thereafter on a quarterly basis.

(2) In preparing these quarterly reports, the Attorney General and the Secretary of State shall cooperate and consult with State and local officials. Such cooperation should include—

(A) adequate notice as to the number of Cubans who have applied or have been granted preference immigration visas; and

(B) the relevant information required in the quarterly reports which would permit State and local entities to prepare for the increased demand for certain services.

SEC. 108. EFFECTIVE DATES AND TRANSITION.

(a) IN GENERAL.—The amendments made by this title shall take effect on October 1, 1990, and shall apply to immigrant visa numbers issued for fiscal years beginning with fiscal year 1991; except that the amendments made by section 3(b) (relating to immigrant visa petitioning process) shall take effect on the date of the enactment of this Act and apply to immigrant visa numbers issued for fiscal years beginning with fiscal year 1991.

(b) GENERAL TRANSITION.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status under section 203(a)(3) or section 203(a)(6) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1990, to be a petition for the status described in section 203(b)(2) or 203(b)(3) of such Act (as amended by this title), as elected by the petitioner, and the priority date for such petition shall remain in effect, except that petitions filed before such date for preference status on the basis of unskilled labor under section 203(a)(6) of such Act (as in effect before such date) shall be deemed as of such date to be petitions for the status described in section 203(b)(3) of such Act (as amended by this title).

(c) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1990, makes application for admission, the immigrant's admissibility under paragraphs (20) and (21) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(d) CONSTRUCTION.—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97-116, section 2(c)(1) of Public Law 97-271, or section 202(e) of Public Law 99-603.

TITLE II—NATURALIZATION AMENDMENTS OF 1989

SEC. 201. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Naturalization Amendments of 1989".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this title, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 202. ADMINTRATIVE NATURALIZATION.

Section 310 (8 U.S.C. 1421) is amended to read as follows:

"NATURALIZATION AUTHORITY

"SEC. 310. (a) AUTHORITY IN ATTORNEY GENERAL.—The original authority to naturalize persons as citizens of the United States is conferred solely upon the Attorney General.

"(b) ADMINISTRATION OF OATHS.—An applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts specified in this subsection to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.

"(c) Appeal to BIA; Judicial Review.—(1) A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the Board of Immigration Appeals (established by the Attorney General under part 3 of title 8, Code of Federal Regulations). The decision of such Board is reviewable by the United States district court for the district in which such person resides. Such review of the district court shall be de novo, and the district court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

"(2) The district court shall issue an order authorizing the naturalization of a person in accordance with this title only after determining, upon review of the denial of that person's application for naturalization, that such denial was wrongfully made as a matter of fact or of law.

"(d) Sole Procedure.—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.".

SEC. 203. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "and who has resided within the State in which the petitioner filed the petition for at least six months" and inserting "and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months".

SEC. 204. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFITS.

(a) IN GENERAL.—Section 332 (8 U.S.C. 1443) is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall broadly disseminate information respecting the benefits which persons may receive under this title and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations, and the Attorney General is authorized to make grants to, and enter into contracts with, such organizations for such purposes.".

(b) ALLOCATION OF FUNDS.—(1) Section 404 (8 U.S.C. 1101, note) is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated by section 404 to carry out this Act for a fiscal year, $1,000,000 shall be available only to carry out section 332(h) for such fiscal year.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1989.

SEC. 205. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR II.

Section 329 (8 U.S.C. 1440) is amended—

(1) in subsection (a), by striking "Any" and inserting "Except as provided in subsection (e), any"; and

(2) by adding at the end thereof the following new subsection:

"(e) Paragraphs (1) and (2) of subsection (a) shall not apply to the naturalization of any person—

"(1) who was born in the Philippines or who was otherwise a noncitizen national of the United States residing in the Philippines before the service described in paragraph (2);

"(2) who served honorably in an active-duty status in the military, air, or naval forces of the United States at any time during the period beginning September 1, 1939, and ending December 31, 1946;

"(3) who is otherwise eligible for naturalization under this section; and

"(4) who applies for naturalization not later than one year after the date of enactment of the Naturalization Amendments of 1989.".

SEC. 206. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1) The item in the table of contents relating to section 310 is amended to read as follows:

"Sec. 310. Naturalization authority.".

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking "(except as used in section 310(a) of title III)".

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIREMENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking "has resided within the State in which he filed his petition for at least six months" and inserting "has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months",

(B) in subsections (b) and (d), by striking "within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States", and

(C) in subsection (c), is amended by striking "within the jurisdiction of the court" and inserting "district of the Service in the United States".

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "any State or within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States".

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting "or district of the Service in the United States" after "State".

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by striking "for at least six months" and inserting "for at least three months";

(B) in subsection (b)(1), by striking "within the jurisdiction of the court" and inserting "within a State or district of the Service in the United States"; and

(C) in subsection (c), by inserting "or district of the Service in the United States" after "State".

(5) Section 329(b) (8 U.S.C. 1440(b)) is amended—

(A) in paragraph (2)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by inserting "and" at the end of paragraph (2);

(B) by striking paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(c) Substitution of Application for Naturalization for Petition for Naturalization.—The text of the following provisions is amended by striking "a petition", "petition", "petitions", "a petitioner", "petitioner", "petitioner's", "petitioning", and "petitioned" each place it appears and inserting "an application", "application", "applications" or "applies" (as the case may be), "an applicant", "applicant", "applicant's", "applying", and "applied", respectively:

(1) Section 313(c) (8 U.S.C. 1424(c)).

(2) Section 316 (8 U.S.C. 1427).

(3) Section 317 (8 U.S.C. 1428).

(4) Section 318 (8 U.S.C. 1429).

(5) Section 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).

(6) Section 322(a) (8 U.S.C. 1433).

(7) Section 324 (8 U.S.C. 324(a)).

(8) Section 325 (8 U.S.C. 1436).

(9) Section 326 (8 U.S.C. 1437).

(10) Section 328 (8 U.S.C. 1439).

(11) Section 329 (8 U.S.C. 1440), other than subsection (d).

(12) Section 330(a)(1) (8 U.S.C. 1441(a)(1)).

(13) Section 331 (8 U.S.C. 1442), other than subsection (d).

(14) Section 333(a) (8 U.S.C. 1444(a)).

(15) Section 334 (8 U.S.C. 1445).

(16) Section 335 (8 U.S.C. 1446).

(17) Section 336 (8 U.S.C. 1447).

(18) Section 337 (8 U.S.C. 1448).

(19) Section 338 (8 U.S.C. 1449).

(20) Section 344 (8 U.S.C. 1455).

(21) Section 1429 of title 18, United States Code.

(d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR NATURALIZATION COURT.—(1) Section 316 (8 U.S.C. 1427) is amended—

(A) in subsection (b), by striking "court" each place it appears and inserting "or the Attorney General",

(B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",

(C) in subsection (e), by striking "the court" and inserting "the Attorney General",

(D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and

(E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.".

(2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking "and the naturalization court".

(3) The third sentence of section 318 (8 U.S.C. 1429) is amended—

(A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and

(B) by striking "upon the naturalization court" and inserting "upon the Attorney General".

(4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking "naturalization court" and inserting "Attorney General", and

(B) in subsection (c)(5), by striking "naturalization court" and inserting "Attorney General".

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking "naturalization court" the first place it appears and inserting "the Attorney General".

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph (2) and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking "naturalization court" and inserting "Attorney General"; and

(C) in subsection (c)—

(i) in paragraph (2), by striking "the judge or clerk of a naturalization court" and inserting "the Attorney General or the judge or clerk of a court described in section 310(b)", and

(ii) in paragraph (3), by striking "or naturalization court" each place it appears and inserting "court, or the Attorney General".

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking "any naturalization court specified in section 310(a) of this title" and inserting "the Attorney General or before a court described in section 310(b)"; and

(B) by inserting "and by the Attorney General to the Secretary of State" after "Department of Justice".

(8) Section 328(c) (8 U.S.C. 1439(c)) is amended by striking "the final hearing" and inserting "any hearing".

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "called for a hearing" and all that follows through "to be continued" and inserting "considered or heard except after 90 days' notice to the Attorney General regarding the application, and the Attorney General's objection to such consideration shall cause the application to be continued".

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking "for the purpose" and all that follows through "naturalization courts" in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "clerk of the court" and inserting "Attorney General".

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION";

(B) in subsection (a)—

(i) by striking "in the office of the clerk of a naturalization court" and inserting "with the Attorney General",

(ii) by striking "upon the hearing of such petition" and inserting "under this title";

(C) in subsection (b)—

(i) by striking "(1)",

(ii) by striking "and (2)" and all that follows through "Attorney General", and

(iii) by striking "petition for";

(D) by amending subsections (c) through (e) to read as follows:

"(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals, to be fixed by the Attorney General.

"(d) Except as provided in subsection (e), an application for naturalization shall be filed in person in an office of the Attorney General.

"(e) A person may file an application for naturalization other than in an office of the Attorney General, and an oath of allegiance may be administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

"(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

"(2) is of a nature which so incapacitates the person as to prevent him from personally appearing."; and

(E) by striking the first sentence of subsection (f) and inserting the following: "An alien who has attained the age of 18 years of age and who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.".

(13) Section 335 (8 U.S.C. 1146) is amended—

(A) by amending the heading to read as follows:

"INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS";

(B) in subsection (a), by striking "At any time" and all that follows through "336(a)" and inserting "Before a person may be naturalized";

(C) in subsection (b)—

(i) by striking "preliminary" each place it appears,

(ii) in the first sentence, by striking "to any naturalization court" and all that follows through "to such court",

(iii) by striking "any court exercising naturalization jurisdiction as specified in section 310 of this title" in the second sentence and inserting "any district court of the United States"; and

(iv) by striking "final hearing conducted by a naturalization court designated in section 310 of this title" in the third sentence and inserting "hearing conducted by an immigration officer under section 336(a)";

(D) in subsection (c)—

(i) by striking "preliminary" each place it appears, and

(ii) by striking "recommendation" and inserting "determination"; and

(E) by amending subsections (d) through (f) to read as follows:

"(d) The employee designated to conduct any such examination shall submit to the Attorney General a determination as to whether the application be granted, denied, or continued, with reasons therefor.

"(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

"(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.".

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

"HEARINGS ON DEN~~IALS~~ OF APPLICATIONS FOR NATURALIZATION";

(B) by amending subsections (a) and (b) to read as follows:

"(a) If, after an examination under section 335, an application for naturalization is denied or continued, the applicant may request a hearing before an immigration officer.

"(b) Where there has been a failure to make a determination under section 335 on an application or a failure to have a hearing under subsection (a) on a denial or continuance of an application, the Board of Immigration Appeals (established by the Attorney General under part 3 of title 8, Code of Federal Regulations) may, in its discretion, and shall, at the request of the applicant in extraordinary circumstances, require such a determination or hearing.";

(C) in subsection (c), by striking "court" and inserting "immigration officer";

(D) in subsection (d)—

(i) by striking "clerk of the court" and all that follows through "naturalization" and inserting "immigration officer shall, if the applicant requests it at the time of filing the request for the hearing",

(ii) by striking "final" each place it appears, and

(iii) by adding at the end the following: "Such subpenas may be enforced in the same manner as subpenas under section 335(b) may be enforced."; and

(E) in subsection (e)—

(i) by striking "naturalization of any person," and inserting "administration by a court of the oath of allegiance under section 337(a)", and

(ii) by striking "included in the petition for naturalization of such persons" and inserting "included in an appropriate petition to the court".

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "in open court" and inserting "in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)",

(ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and

(iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";

(B) in subsection (b)—

(i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and

(ii) by striking "in the court" after "recorded";

(C) in subsection (c)—

(i) by striking "being in open court" and inserting "attending a public ceremony", and

(ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and

(D) by adding at the end the following new subsection:

"(d) The Attorney General shall prescribe rules and procedures to ensure that the public ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are in keeping with the dignity of the occasion.".

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking "by a naturalization court",

(B) by striking "the clerk of such court" and inserting "the Attorney General",

(C) by striking "title, venue, and location of the naturalization court" and inserting "location of the district office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",

(D) by striking "the court" and inserting "the Attorney General", and

(E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

"FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION

"SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

"(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

"(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

"(3) make and keep on file evidence for each such document issued, and

"(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

"(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.".

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking "in any court specified in subsection (a) of section 310 of this title" and inserting "in any district court of the United States",

(B) by amending the second sentence of subsection (h) to read as follows: "The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.",

(C) by striking the third sentence of subsection (h), and

(D) in subsection (j), by striking "any naturalization court" and all that follows through "to take such action" and inserting the following: "the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of the court" and inserting "The Attorney General",

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalization court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,", and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court shall" and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and all that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from the clerk,", "such clerk", and "by the clerk" and inserting "Attorney General", "from the Attorney General,", "the Attorney General", and "by the Attorney General", respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

(20) Section 348 (8 U.S.C. 1459) is amended—

(A) by striking subsections (b) and (c); and

(B) by striking "(a)" in subsection (a).

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 311 (8 U.S.C. 1422) is amended by striking the second sentence.

(2) Section 316 (8 U.S.C. 1427) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(3) Section 329 (8 U.S.C. 1440) is amended by striking subsection (d).

(4) Section 330 (8 U.S.C. 1441(a)) is amended—

(A) by striking paragraphs (2) and (3) of subsection (a) and by striking "(a)(1)" in subsection (a), and

(B) by striking subsection (b).

(5) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention.
"Sec. 335. Investigation of applicants; examination of applications.
"Sec. 336. Hearings on denials of applications for naturalization.".

(2) The item in the table of contents relating to section 339 is amended to read as follows:

"Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.".

SEC. 207. EFFECTIVE DATES AND SAVINGS PROVISIONS.

(a) Effective Date.—

(1) No new court petitions after effective date.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before the effective date (as defined in paragraph (3)).

(2) Treatment of current court petitions.—

(A) Continuation of current rules.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on the effective date shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) Permitting withdrawal and consideration of application under new rules.—In the case of any petition for naturalization which may be pending in any court on the date of the enactment of this Act, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title.

(3) EFFECTIVE DATE DEFINED.—As used in this section, the term "effective date" means the first day of the fourth month beginning after the date of the enactment of this Act.

(4) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement, on a timely basis, the amendments made by this title.

(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before the effective date.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

○

II

101st CONGRESS
1st Session

S. 448

To amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States.

IN THE SENATE OF THE UNITED STATES

February 23 (legislative day, January 3), 1989

Mr. Simon (for himself, Mr. Cranston, and Mr. Daschle introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Legal Immigration Reform Act of 1989".

(b) References in Act.—Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(c) Table of Sections.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.
Sec. 2. Worldwide level of immigration; per country immigration levels.
Sec. 3. Preference system for admission of immigrants.
Sec. 4. Select Review Commission on Legal Immigration Reform.
Sec. 5. Action with respect to spouses and children of legalized aliens.
Sec. 6. Shortening to 3 years the usual period of lawful permanent residence required for naturalization.
Sec. 7. Naturalization of individuals over age 65 residing in permanent residence for at least 10 years.
Sec. 8. Naturalization of natives of the Philippines through active-duty service in the armed forces during World War II.
Sec. 9. Miscellaneous conforming and technical changes.
Sec. 10. Effective dates and transition.

SEC. 2. WORLDWIDE LEVEL OF IMMIGRATION; PER COUNTRY IMMIGRATION LEVELS.

(a) Worldwide Level of Immigration.—(1) Section 201 (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"Sec. 201. (a) In General.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-based immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)) in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

"(3) independent immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)), in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

"(B) Aliens who are admitted under section 207(c) pursuant to a numerical limitation established under section 207(b).

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Aliens who are immediate relatives. For purposes of this clause, the term 'immediate relatives' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(C) Aliens who are admitted under section 207(c) pursuant to a numerical limitation established under section 207(a) and aliens who are granted asylum under section 208.

"(c) WORLDWIDE LEVEL OF FAMILY-BASED IMMIGRANTS.—The worldwide level of family-based immigrants under this subsection for a fiscal year shall not exceed 336,000, plus (for a fiscal year after fiscal year 1991) the difference (if any) between the maximum number of visas which may be issued under subsection (a)(2) (relating to employment-based immigrants) during the previous fiscal year and the number of visas issued under that subsection during that year.

"(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year shall not exceed 84,000, plus (for a fiscal year after fiscal year 1991) the difference (if any) between the maximum number of visas which may be issued under subsection (a)(1) (relating to family-based immigrants) during the previous fiscal year and the number of visas issued under that subsection during that year.

"(e) WORLDWIDE LEVEL OF INDEPENDENT IMMIGRANTS.—The worldwide level of independent immigrants under this subsection for a fiscal year shall not exceed 66,000 for each of fiscal years 1991, 1992, and 1993, and shall not exceed 9,900 for each fiscal year thereafter.".

(2) The item in the table of contents relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking "paragraphs (1) through (7) of subsection (a)" and all that follows through "following fiscal year" and inserting "paragraphs (1) and (2) of section 201(a) shall not exceed 22,000 in any fiscal year"; and

(2) in subsection (c), by striking "5,000" and inserting "5,500".

SEC. 3. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) IN GENERAL.—

(1) WORLDWIDE ALLOCATION.—Section 203 (8 U.S.C. 1153) is amended to read as follows:

"ALLOCATION OF IMMIGRANT VISAS

"SEC. 203. (a) PREFERENCE ALLOCATION FOR FAMILY-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-based immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall first be made available, in a number not to exceed 5 percent of such worldwide level, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

"(2) SPOUSES AND UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available, in a number not to exceed 60 percent of such worldwide level plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available, in a number not to exceed 10 percent of such worldwide level plus any visas not required for the classes specified in paragraph (1) or (2), to qualified immigrants who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF CITIZENS.—Visas shall next be made available, in a number not to exceed 25 percent of such worldwide level plus any visas not required for the classes specified in paragraph (1), (2), or (3), to qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age.

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants shall be allotted visas as follows:

"(1) PROFESSIONALS AND ALIENS WITH EXCEPTIONAL ABILITY.—(A) Visas shall first be made available, in a number not to exceed 50 percent of such worldwide level, to qualified immigrants who—

"(i) are members of the professions, or

"(ii) because of the immigrant's exceptional ability in the sciences, arts, business, or education will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States,

and, except as provided in subparagraph (C), whose services in the professions, sciences, arts, business, or education are sought by an employer in the United States.

"(B) No immigrant visa shall be issued to an immigrant described in subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(C) The Secretary of Labor may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the professions, sciences, arts, or education be sought by an employer in the United States and of subparagraph (B).

"(2) SKILLED AND UNSKILLED LABOR.—(A) Visas shall next be made available, in a number not to exceed 50 percent of such worldwide level plus any visas not required for the classes specified in paragraph (1)(A), to qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(B) No immigrant visa shall be issued to an immigrant described in subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) PREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(e) for independent immigrants shall be allotted visas as follows:

"(1) INVESTORS.—Visas shall first be made available, in a number not to exceed 15 percent (for fiscal years 1991, 1992, and 1993) or 100 percent (for subsequent fiscal years) of such worldwide level, to qualified immigrants who seek to enter the United States for the purpose of engaging a new commercial enterprise which the alien has established and in which the alien has invested, or is actively in the process of investing, capital in an amount not less than $500,000 (or, in the discretion of the Attorney General in consultation with the Secretary of Labor and the Secretary of State, such larger dollar amount as the Attorney General may prescribe in regulations), and which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence (other than the spouse, sons, or daughters of such an immigrant).

"(2) PILOT POINT SYSTEM PROGRAM.—(A) For each of fiscal years 1991, 1992, and 1993, visas shall next be made available, in a number not to exceed 85 percent of the number specified in such section, to qualified immigrants who have scores of at least 25 points under the scoring system established under subparagraph (B) for the fiscal year involved.

"(B) The scoring system referred to in subparagraph (A) shall accord points, for the 3-fiscal year period, based on criteria as follows:

"(i) AGE (10 POINTS).—For an alien who on October 1, 1990, is—

"(I) at least 21 years of age but has not attained 36 years of age, 10 points; or

"(II) at least 36 years of age, but has not attained 50 years of age, 5 points.

"(ii) EDUCATION (14 POINTS).—For an alien who (as of the date of filing a petition)—

"(I) has completed successfully high school or its educational equivalent (as determined by the Secretary of Education), 10 points;

"(II) has completed successfully a bachelor's degree or its educational equivalent (as determined by the Secretary of Education), 2 additional points; and

"(III) has been awarded a graduate degree or its educational equivalent (as determined by the Secretary of Education), 2 additional points.

"(iii) OCCUPATIONAL SHORTAGE (5 POINTS).—For an alien who is qualified in an occupation for which the Secretary of Labor determines (before the beginning of the period) that there will be a shortage of able, willing, and qualified individuals in the United States in the occupation in the period, 5 points.

"(iv) ADDITIONAL SKILLS OR WORK EXPERIENCE (15 POINTS).—For an alien who (as of the date of filing a petition) has additional training, work experience, or both, as determined by the Secretary of Labor, in a lawful occupation, 2 points for each year of such training or work experience, not to exceed a total of 15 points under this clause; except that no such points shall be awarded an alien who is engaged in a field of specialized knowledge or skill designated by the State under section 212(e) with respect to the country of which the individual is a national or resident.

"(v) PREARRANGED EMPLOYMENT IN AN AREA WITH A LOW UNEMPLOYMENT RATE (5 POINTS).—For an alien who (as of the date of filing a petition) has an arrangement (meeting conditions specified by the Secretary of Labor) for the employment of the alien beginning during the period in the occupation described in clause (iii) in an area identified by such Secretary as an area with a low unemployment rate, 5 points.

"(C) The point system described in subparagraph (B) shall be established by regulation by the Secretary of State in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education.

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(d) ORDER OF CONSIDERATION.—(1) In considering applications for immigrant visas under subsections (a), (b), and (c), consideration shall be given to applicants in the order in which the classes of which they are members are listed in the respective subsection.

"(2) Immigrant visas made available under subsection (a), (b), or (c) (other than paragraph (2)) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204(a).

"(3) Immigrant visa numbers made available under subsection (c)(2) for a fiscal year shall be made available to eligible immigrants strictly in a random order established by the Secretary of State.

"(4) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.

"(e) PRESUMPTION.—Every immigrant shall be presumed not to be described in subsection (a), (b), or (c) of this section section 101(a)(27), or section 201(b)(2), until the immigrant establishes to the satisfaction of the consular officer and the immigration officer that the immigrant is so described. In the case of any alien claiming in his application for an immigrant visa to be described in section 201(b)(1) or in subsection (a), (b), or (c) of this subsection, the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

"(f) LISTS.—For purposes of carrying out his responsibilities in the orderly administration of this section, the Secretary of State may make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories under subsections (a), (b), and (c), and to rely upon such estimates in authorizing the issuance of visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within 2 years following the date of notification of the availability of such visa that such failure to apply was due to circumstances beyond his control.".

(2) CONSTRUCTION.—Nothing in this subsection may be construed as continuing the availability of visas under section 203(a)(7) of the Immigration and Nationality Act, as in effect before the date of enactment of this Act.

(b) IN-COUNTRY DISTRIBUTION FOR COUNTRIES AT PER COUNTRY CEILING.—Subsection (e) of section 202 (8 U.S.C. 1152) is amended to read as follows:

"(e) Where it is determined that the maximum number of visas will be made available under this section to natives of any single foreign state or to any dependent area in any fiscal year, in determining whether to provide for visa numbers to natives under section 203(a) or under section 203(b), visa numbers with respect to natives of that state shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to 4 to 1;

"(2) the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the percentages specified in such respective paragraphs; and

"(3) the proportion of the visa numbers made available under each of paragraphs (1) and (2) of section 203(b) is equal to the percentages specified in such respective paragraphs.".

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204(a) (8 U.S.C. 1154(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (5), and

(2) by striking "(a)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or any citizen of the United States or alien lawfully admitted for permanent residence claiming that an alien is entitled to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1) (or any person on behalf of such an alien) (relating to professionals) may file a petition with the Attorney General for such classification.

"(D) Any person desiring and intending to employ within the United States an alien entitled to classification under paragraph (1) or (2) of section 203(b) (relating to professionals and workers) may file a petition with the Attorney General for such classification.

"(E) Any alien desiring to be classified under paragraph (1) of section 203(c) (relating to investors) may file a petition with the Attorney General for such classification.

"(F)(i) Any alien desiring to be provided an immigrant visa under section 203(c)(2) during the 3-fiscal-year period described in such section may file a petition at the place and during a petitioning period, specified by the Secretary of State by regulation, of not less than 90 days occurring during the 9 months before the beginning of such period. For purposes of this subsection, only one such petition may be used for purposes of the random selection described in section 203(d)(3).

"(ii) The Secretary of State shall prescribe such regulations as may be necessary to carry out this subparagraph.

The Secretary of State shall provide for a schedule of fees to be charged for the filing of a petition under this subparagraph and to be sufficient to cover administrative and other expenses incurred in connection with the processing of such petitions. Notwithstanding sections 1 and 2 of the Act of June 4, 1920, as amended (41 Stat. 750; 22 U.S.C. 214) or any other provision of law, fees collected under this clause shall be credited to the Department of State for its expenses incurred in processing petitions under this subparagraph.

"(2) A petition or registration under this subsection shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

"(3) The petition under this subsection shall include a certification in writing at the time of filing a petition that all information contained within the petition is true and correct to the best of the petitioner's knowledge, and any willful misrepresentation of the facts or statements included in the petition shall be deemed a violation of section 212(a)(19).".

(c) REVISION OF LABOR CERTIFICATION.—(1) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(14) Aliens seeking to enter the United States to perform skilled or unskilled labor unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient qualified workers (or equally qualified workers in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences, arts, or education) available in the United States in the positions in which the aliens will be employed; and (B) the employment of aliens in such positions will not adversely affect the wages and working conditions of workers in the United States similarly employed. The Secretary of Labor may, in his discretion, substitute for the determination and certification described in clause (A) of the preceding sentence a determination and certification that there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences, arts, or education), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor. In making either determination under this paragraph, the Secretary of Labor may use labor market information without regard to the specific job opportunity for which certification is requested, but if such determination is adverse, the Secretary of Labor shall make a certification with regard to the specific job opportunity if the employer submits evidence that such specific certification would result in a different determination. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to immigrants seeking admission under paragraph (1) or (2) of section 203(b);".

(2) The Secretary of Labor shall conduct a comprehensive study to determine whether the process of obtaining an immigrant labor certification under section 212(a)(14) of the Immigration and Nationality Act, as amended by this Act, has been simplified or otherwise expedited. In conducting this study, the Secretary shall hold public hearings. Not later than March 31, 1993, the Secretary of Labor shall prepare and transmit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report containing the findings of such study and including any recommendations of other relevant agencies of the Federal Government with respect to such findings.

SEC. 4. SELECT REVIEW COMMISSION ON LEGAL IMMIGRATION REFORM.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—As of February 1, 1991, there is established a Select

Review Commission on Legal Immigration Reform (in this section referred to as the "Commission") which shall be composed of 12 members—

(1) six to be appointed by the President,

(2) three to be appointed by the Speaker of the House of Representatives, and

(3) three to be appointed by the President pro tempore of the Senate.

Appointments to the Commission shall be made during the 45-day period beginning on February 1, 1991. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(3) Members shall be appointed to serve full time for the life of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of the provisions of this Act, in accordance with subsection (c), and

(2) transmit to the President and the Congress, by not later than May 1, 1993, a report setting forth the Commission's findings and recommendations, including such recommendations for additional changes that should be made with respect to legal immigration into the United States as the Commission deems appropriate.

(c) PARTICULAR CONSIDERATIONS.—In particular, the Commission shall review—

(1) the appropriateness of—

(A) the worldwide immigration levels established under the amendments,

(B) the percentage distribution among classifications of family-based immigrants,

(C) the point system used for purposes of independent immigrants,

(D) the level of, and eligibility for, employment-based immigration, and

(E) the per-country limitations on admission of immigrants; and

(2) the impact of changes in immigration on labor needs, employment, and other economic and domestic conditions in the United States and on the foreign policy and national security interests of the United States.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the minimum annual rate of basic pay in effect for grade GS–18 of the General Schedule. Each member of the

Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—The provisions of subsections (e) through (h) of section 304 of the Immigration Reform and Control Act of 1986 shall apply to the Commission in the same manner as they apply to the Commission established under such section.

(f) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted under subsection (b)(2), except that the Commission may continue to function through not later than October 1, 1993, for the purpose of concluding its activities, including testifying concerning and disseminating its report under this section.

SEC. 5. ACTION WITH RESPECT TO SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible

immigrant (as defined in subsection (b)(1)) as of January 1, 1989, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, until the cut-off date specified in paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States on a ground specified in paragraphs (1), (2), (5), (9), or (12) of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1) of such Act as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (28), (29), or (33) of section 212(a) of such Act), and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) CUT-OFF DATE.—For purposes of paragraph (1), the "cut-off date" specified in this paragraph, in the case of an eligible immigrant who is the spouse or child of a legalized alien described in—

(A) subsection (b)(2)(A), is (i) the date the legalized alien's status is terminated under section

210(a)(3) of the Immigration and Nationality Act, or (ii) subject to paragraph (4), 60 days after the date of the notice to the legalized alien under paragraph (3) of the applicable cut-off date, whichever date is earlier;

(B) subsection (b)(2)(B), is (i) the date the legalized alien's status is terminated under section 245A(b)(2) of the Immigration and Nationality Act, or (ii) subject to paragraph (4), 60 days after the date of the notice to the legalized alien under paragraph (3) of the applicable cut-off date, whichever date is earlier; or

(C) subsection (b)(2)(C), is 60 days after the date of the notice to the legalized alien under paragraph (3) of the applicable cut-off date.

(3) NOTICE.—In the case of each legalized alien whose status has been adjusted under section 210(a)(2) or 245A(b)(1) of the Immigration and Nationality Act or under section 202 of the Immigration Reform and Control Act of 1986 and who has a spouse or child receiving benefits under paragraph (1), the Attorney General shall notify the alien of the applicable cut-off date described in paragraph (2)(B) and the need to file a petition for classification of such spouse or child as a

permanent resident to continue the benefits of paragraph (1). Such notice shall be provided as follows:

(A) If the legalized alien adjusted status to that of an alien lawfully admitted for permanent residence before the date that the definition contained in section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by this Act) first applies, the notice under this paragraph shall be provided as of the date that that definition first applies.

(B) If the legalized alien adjusted status to that of an alien lawfully admitted for permanent residence after the date that such definition first applies, the notice under this paragraph shall be provided at the time of granting such adjustment of status.

(4) DELAY IN CUT-OFF WHILE SECOND PREFERENCE PETITION PENDING.—The cut-off date under paragraph (2)(B) with respect to an eligible immigrant shall not apply during any period in which there is pending with respect to the eligible immigrant a classification petition for permanent resident status under section 204(a) of the Immigration and Nationality Act.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien.

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be issued an immigrant visa under this section shall not preclude the alien from seeking such a visa under any other provision of law for which the alien may be eligible.

SEC. 6. SHORTENING TO 3 YEARS THE USUAL PERIOD OF LAWFUL PERMANENT RESIDENCE REQUIRED FOR NATURALIZATION.

(a) IN GENERAL.—Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "five years" and inserting "three years".

(b) CONFORMING AMENDMENTS.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) by striking subsection (a),

(B) in subsection (c), by striking "five years" and inserting "three years", and

(C) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "319(b)(1)" and "319(b)(1)(B)" and inserting "319(a)(1)" and "319(a)(1)(B)", respectively.

SEC. 7. NATURALIZATION OF INDIVIDUALS OVER AGE 65 RESIDING IN PERMANENT RESIDENCE FOR AT LEAST 10 YEARS.

Section 312(1) (8 U.S.C. 1423(1)) is amended by inserting after "residence" at the end of the first proviso the following: "or is over sixty-five years of age and has been living in the United States for periods totaling at least ten years subsequent to a lawful admission for permanent residence".

SEC. 8. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR II.

Section 329 (8 U.S.C. 1440) is amended—

(1) in subsection (a), by striking "Any" and inserting "Except as provided in subsection (e), any"; and

(2) by adding at the end the following new subsection:

"(e) The requirements of clause (i) or (ii) of subsection (a) shall not apply to the naturalization of any person—

"(1) who was born in the Philippines or who was otherwise a noncitizen national of the United States residing in the Philippines before the service described in paragraph (2);

"(2) who served honorably in an active-duty status in the military, air, or naval forces of the United States at any time during the period beginning September 1, 1939, and ending December 31, 1946;

"(3) who is otherwise eligible for naturalization under this section; and

"(4) who applies for naturalization not later than one year after the date of enactment of the Legal Immigration Reform Act of 1989.".

SEC. 9. MISCELLANEOUS CONFORMING AND TECHNICAL CHANGES.

(a) Sections 101(b)(1)(F), 202(a), 202(c), 204(b), 204(e), 216(g)(1)(A), 222(a), 244(d), 245(c)(2), and 245(c)(5) (8 U.S.C. 1101(b)(1)(F), 1152(a), 1152(c), 1154(a)(1), 1154(b), 1154(e), 1186a(g)(1)(A), 1202(a), 1254(d), 1255(c)(2), 1255(c)(5)) are each amended by striking "201(b)" each place it appears and inserting "201(b)(2)(A)(i)".

(b) Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (b)—

(A) by striking "section 203(a) (3) or (6)" and inserting "section 203(b) (1) or (2)",

(B) by striking "a preference status under section 203(a)" and inserting "preference under subsection (a), (b), or (c) of section 203", and

(C) by striking "The Secretary of State" and inserting "Subject to section 203(c)(2), the Secretary of State";

(2) in subsection (e)—

(A) by striking "preference immigrant under section 203(a)" and inserting "immigrant under subsection (a), (b), or (c) of section 203", and

(B) by striking "section 201(b)" and inserting "section 201(b)(2)(A)(i)";

(3) in subsection (f), by striking "paragraphs (1) through (6) of";

(4) in subsection (g)(1), by striking "203(a)(4)" and inserting "203(a)(3)"; and

(5) in subsection (h), by striking "preference status" and inserting "status under section 203(a)(2)".

(c) Section 212(a)(32) (8 U.S.C. 1182(a)(32)) is amended by striking "203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "203(b) (1) and (2)".

(d) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking "201(a)" and inserting "201(c)".

(e) Section 245 (8 U.S.C. 1255) is amended—

(1) in subsection (b), by striking "203(a)" and inserting "203", and

(2) in subsection (c), by redesignating clause (5) as clause (4) and by inserting before the period at the end the following: ", or (5) an alien who is applying for adjustment of status to preference status under section 203(c)(2)".

(f)(1) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(2) Section 1614(a)(1)(B) of the Social Security Act is amended by striking "section 203(a)(7) or".

(g) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended by inserting before the period at the end the following: "(as in effect before October 1, 1989) or by reason of the relationship described in section 203(a)(2), 203(a)(3), 203(a)(4), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)".

SEC. 10. EFFECTIVE DATES AND TRANSITION.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), this Act (and the amendments made by this Act) shall take effect on the date of the enactment of this Act.

(2) Except as provided in paragraph (3), if this Act is enacted before May 1, 1990, the amendments made by sections 2, 3, and 9 of this Act shall take effect on October 1, 1990, and shall apply to immigrant visa numbers issued for fiscal years beginning with fiscal year 1991; except that the amendments made by section 3(b) (relating to immigrant visa petitioning process) shall take effect on the date of the enactment of this Act and apply to immigrant visa numbers issued for fiscal years beginning with fiscal year 1991.

(3)(A) Subject to subparagraph (B), if this Act is enacted before May 1, 1990, with respect to fiscal year 1990, in applying sections 201 and 203 of the Immigration and Nationality Act—

(i) the definition of "immediate relative" contained in section 201(b)(2)(A)(i) of such Act (as amended by this Act) shall apply instead of the definition specified in section 201(b) of such Act (as in effect on the date of the enactment of this Act); and

(ii) instead of the worldwide numerical limitation specified in section 201(a) of such Act, there shall be applied a worldwide numerical limitation of 390,000, consisting of a family-based numerical limitation of 336,000, and an employment-based numerical limitation of 54,000, which numerical limitation shall be applied among the preference categories described in sections 203(a) of such Act (as in effect on the date of the enactment of this Act) as follows:

(I) Of the family-based visas, visas shall first be made available, in a number not to exceed 84,000, to preference immigrants described in section 203(a)(1) of such Act.

(II) Of the family-based visas, visas shall next be made available, in a number not to exceed 109,200 plus any visas not required for classes described in subclause (I), to preference immigrants described in section 203(a)(2) who are not immediate relatives (as defined under section 201(b)(2)(A)(i), as amended by this Act).

(III) Of the employment-based visas, visas shall be made available, not to exceed 27,000, to preference immigrants described in section 203(a)(3).

(IV) Of the family-based visas, visas shall next be made available, in a number not to exceed 42,000, plus any visas not required for classes described in subclauses (I) through (III), to preference immigrants described in section 204(a)(4).

(V) Of the family-based visas, visas shall next be made available, in a number not to exceed 100,800, plus any visas not required for classes described in subclauses (I) through (IV), to preference immigrants described in section 204(a)(5).

(VI) Of the employment-based visas, visas shall be made available, not to exceed 27,000, to preference immigrants described in section 203(a)(6).

(B) If this Act is enacted after October 1, 1989, and before May 1, 1990, the provisions of subparagraph (A) shall apply only to visas for calendar quarters in fiscal year 1990 which have not begun before the date of the enactment of this Act and in applying such subparagraph each of the numerical limitations shall be proportionately reduced to reflect the number of calendar quarters in fiscal year 1990 to which subparagraph (A) will be applied.

(b) GENERAL TRANSITION.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status—

(1) under section 203(a)(2) of such Act (as in effect before such date), in the case of a spouse or a child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of October 1, 1990, to be a petition for immediate relative status described in section 201(b)(2)(A)(i) of such Act (as amended by this title), or

(2) under paragraph (3), (4), (5), or (6) of section 203(a) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1990, to be a petition for the respective status described in subsection (b)(1), (a)(3), (a)(4), and (b)(2) of section 203 of such Act (as amended by this title), and the priority date for such petition shall remain in effect.

(c) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1990, makes application for admission, the immigrant's admissibility under paragraphs (20) and (21) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(d) CONSTRUCTION.—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97-116, section 2(c)(1) of Public Law 97-271, or section 202(e) of Public Law 99-603.

○

Senate **Kennedy**. Senator Simpson.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator **Simpson**. Mr. Chairman, I thank you, and I am very pleased that we are again proceeding here to reform our immigration laws early in the session. I believe it is very important that we complete that work during the first session in order to allow the House sufficient time to consider the legislation.

I am looking forward to working with Chairman Bruce Morrison in the House, the new chairman, and the ranking Member, Lamar Smith, and Jack Brooks and Ham Fish, people you and I know and have worked with in the past.

It is a distinct pleasure to work with you. I really do mean that, and we have done that now for 10 years. So, here we go with a new piece of legislation. I think it will be more interesting in the Senate this year than it was in the past. They are going to be loaded for bear over here this trip. They weren't the last time because they knew it would find its way to the elephant graveyard over in the House. [Laughter.]

And that is no reflection on the Members. It is just the way it is with regard to legal immigration issues. But we have new players and there will be more careful examination of our effort here, I think, than before. I think we are ready for that.

Ted, you have been here; you have been involved. You have the longest institutional memory of anyone in either body as to what we are doing here and what we are trying to do with either immigration or refugees, and we have some serious things to address there with refugees.

But the changes made in immigration laws in 1965 need review. You were here then; you were a leader then, you are a leader now. And those changes were designed to provide persons of all countries an opportunity to compete fairly for an immigrant visa to the United States.

Despite those good intentions, we now find that that 1965 law may have denied natives of certain countries that opportunity. Persons from only eight countries of the world, who have family connections in the United States, reap the lion's share of the half a million immigrant visas that we issue annually. So, I think we have to go into those issues.

Our immigration system is nonresponsive to our labor needs. It has effectively eliminated diversity from the immigration process. Today, nearly 85 percent of our immigrants come from two regions of the world. Today, only 5 percent of our immigrants are selected because they have various skills or occupations needed in the American labor market. That is just not in the national interest.

The Immigration Act of 1989, which Senator Kennedy and I have again introduced and which the Senate passed last year, as he said, by 88 to 4, takes the first steps. I say the first steps because the changes that we propose are really quite modest, and I think fair, but they will get us started in the right direction.

We have about 55,000 visas to be awarded to independent immigrants; some call them new seed or classic immigrants. These are immigrants with skills and training and other attributes which will benefit the United States.

Applicants shall receive points for age, education, and occupations needed in the United States, and training or experience in that occupation, and for an ability to use the English language. All of those skills and attributes are believed to be useful in selecting immigrants who will be easily integrated into and greatly benefit the U.S. society and economy.

We provide an additional 5,000 visas for immigrant investors to create jobs; make minor changes in the preference system for immigrants who have job offers from U.S. employers; adjust the qualifications slightly to provide for the higher-skilled workers who will be required in the labor market in the coming years.

Those, I think, are minor adjustments. Seventy-five percent of our visas will continue to go to family-connection immigrants. I think that is getting missed in the process.

Let me just say briefly, Mr. Chairman, a few things the bill does not do.

It does not reduce the number of people who may immigrate because of family connections in this country. In fact, it increases the number of visas available to family-connection immigrants until we have the review under the law.

It does not put an overall, rigid cap on immigration to the United States. The admission of the closest family members of U.S. citizens—parents, spouses, and children—remains unlimited and unrestricted in any way.

However, the numbers of those closest family immigrants will now be counted under the new national level of immigration, and the remaining family-connection visas will then be distributed to the more distant family members.

The bill does not deny immigration opportunities to all brothers and sisters of U.S. citizens, but it does limit the visas to the never-married brothers and sisters. It makes precious little sense to me that we give thousands of our very limited visas each year to brothers-in-law, sisters-in-law, nieces and nephews of U.S. citizens all when the closer family members such as married children of U.S. citizens and the immediate family of permanent residents may wait often for many years for a visa.

So, the bill will increase immigration over current levels by 80,000 to 100,000 visas. We will do this with the knowledge that most Americans seem to feel that our immigration levels are high enough or even too high, according to polling. We have to watch that type of thing.

We did not want to cause a squeeze in the present overall level of family-preference immigration until we have had the benefit of the first triennial review by the President under the bill.

So, we will look forward to having the benefit of the annual reports on the economic and social and demographic impacts of those changes. Those reports are required in the bill.

Another important factor is that there is an extraordinary amount of research being conducted today on the various effects of immigration to this country. We will have the benefit of that rich array of research when we consider the President's recommendation on the overall numbers after 3 years.

So, I look forward to the testimony, Mr. Chairman. We need to hear and consider the views of all of those who have studied our immigration policy, as well as those who will be affected by the changes we propose. We had 2 days of testimony in the last Congress on the bill, and the witnesses this morning will further inform us in the debate.

I very much look forward to working with you and Senator Simon and the other members of the subcommittee—that is it, I guess, the subcommittee.

Senator KENNEDY. Thank you very much, Senator Simpson.

I recognize Senator Paul Simon.

Senator SIMON. Thank you, Mr. Chairman, and I note that our colleague referred to the House as the elephant graveyard rather than the donkey graveyard over there.

Senator SIMPSON. I take it back. [Laughter.]

Senator SIMON. Before I make just a few comments, I would ask unanimous consent that a statement be entered in the record by one cosponsor of my legislation, Senator Tom Daschle, and that a statement of the American Jewish Committee; a statement by the National Association of Latino Elected and Appointed Officials headed by Congressman Ed Roybal; a statement by the Irish Immigration Reform Movement by its national chairman, Sean Minihane; and a statement by Los Angeles attorney Howard Hom on behalf of the Pacific Leadership Council all be entered into the hearing record.

Senator KENNEDY. They will all be included.

[The prepared statements follow:]

STATEMENT OF

SENATOR TOM DASCHLE

HEARING ON IMMIGRATION REFORM

MARCH 3, 1989

Mr. Chairman, I commend you and your colleagues on the Subcommittee on Immigration and Refugee Affairs for taking such prompt action to hold hearings on immigration reform legislation. I doubt anyone understands the far-reaching human consequences of American immigration policy better than the members of this panel, and I am hopeful that you, Senator Simpson and Senator Simon will be able to negotiate a compassionate and fair immigration reform bill past the legislative hurdles which lie ahead.

I appreciate having this opportunity to offer some brief comments on immigration reform at this significant kick-off hearing. Today marks a new beginning for legal immigration reform, and the two proposals before the Subcommittee, S. 358, the Kennedy/Simpson bill, and S. 448, the Simon/Cranston/Daschle bill, provide an excellent starting point for your deliberations.

One of the most encouraging aspects of this fresh start is that the congressional debate now includes strong consideration of family reunification principles, which are so important to many Asian and Pacific Americans. I would like to take just a moment to focus on one significant difference between S. 358 and S. 448.

Family reunification principles are clearly addressed in the Simon/Cranston/Daschle bill. While I know that Senators Kennedy and Simpson, and their staffs, have worked very hard on S. 358, the Simon/Cranston/Daschle bill presents a viable, and in many ways preferable, alternative. It seeks to restore and protect family reunification principles.

Last November, Senator Simon and I sponsored a seminar in Washington on several issues of importance to Asian and Pacific Americans. Legal immigration reform, and especially changes to the fifth preference, are priority concerns to the Asian and Pacific American communitiy. As you know, the fifth preference visa is most frequently used by Asian and Pacific American citizens in their efforts to be reunited with their adult siblings. The current wait for processing these applications is eight years for residents of Korea and China, 10.5 years for residents of Hong Kong, and 11.5 years for residents of the Philippines.

It has been predicted that the Kennedy/Simpson proposal, which would reduce the number of fifth preference visas and restrict future eligibility to only unmarried brothers and sisters of U.S. citizens, would increase the wait for a visa to over 25 years. It is worth noting, in this regard, that only about one-quarter of fifth preference applicants from Asian countries are unmarried.

The Simon/Cranston/Daschle bill, on the other hand, includes provisions that would increase the ceiling for visas under the family preference categories, while maintaining the current eligibility criteria for those categories. Thus, under the fifth preference alone, the ceiling would be increased by 18,000 visas per year, with no additional restrictions applied.

For this and other reasons, I believe the Simon/Cranston/Daschle bill responds more effectively to the concerns of Asian and Pacific Americans. It is a comprehensive, sound approach to legal immigration reform. It is my hope that the Subcommittee on Immigration and Refugee Affairs will undertake to include these strong family reunification provisions in its final legal immigration reform package.

In closing, I would like to again thank the chairman and other members of the Subcommittee for placing such a high priority on legal immigration reform. I look forward to following the progress of your work in this area throughout the 101st Congress.

STATEMENT OF THE
AMERICAN JEWISH COMMITTEE
ON
LEGAL IMMIGRATION REFORM

Submitted to the
Subcommittee on Immigration and Refugee Affairs
of the
Committee on the Judiciary
U.S. Senate

March 3, 1989

PREFATORY NOTE

This statement has been endorsed by the **National Jewish Community Relations Advisory Council**, the national planning and coordinating body of the Jewish community relations field, consisting of the following national member agencies: American Jewish Committee, American Jewish Congress, Anti-Defamation League of B'nai B'rith, B'nai B'rith International Council, Hadassah, Jewish Labor Committee, Jewish War Veterans of the USA, National Council of Jewish Women, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations of America, United Synagogue of America, Women's American ORT, Women's League for Conservative Judaism, and 114 community agencies representing Jewish communities throughout the United States.

The American Jewish Committee has actively participated in every major reform of immigration legislation in the United States since AJC's founding in 1906. In particular, we strongly supported the 1965 amendments to the Immigration Act which form the basis of our legal entry system today. AJC also was intensely involved in the process of the Select Commission on Immigration and Refugee Policy whose 1981 report has had much influence on proposed legislative changes in legal immigration currently under discussion by the Senate.

It is encouraging that continuing public discussion about legal immigration over the past decade has produced a good deal of consensus on directions for the future. All serious legislative proposals in the past two years have agreed that immigration is good for the United States, that levels of entry should not be cut, that family unification should continue to serve as the major criterion for setting priorities for immigration and that we should encourage new flows into the country by populations blocked from admission under the current system. This consensus is testimony both to the wisdom of the original Select Commission recommendations and to the process of discussion since that has produced agreement on these major points. We regard these areas of agreement as a minimal baseline for any reform of the current immigration system.

But the legislation introduced by Senators Kennedy and Simpson, S.358, differs in two critical respects from the Select Commission recommendations. In both cases, we believe that these changes will result in a significantly weaker bill than would have emerged had the Select Commission conclusions been accepted. We advocate significant changes in S.358 in both instances.

The first deviation from the Select Commission recommendations would impose a rigid cap on legal immigration. It is difficult to perceive the problem to which a cap is the purported answer. Legal immigration under the current system is hardly out of control, or indeed problematic in any major way. Immigrants -- mostly close relatives of U.S. citizens or resident aliens -- enter under strictly controlled preference categories. Only immediate relatives of U.S. citizens enter without limitation. Their degree of closeness to citizens makes their immediate unification with their families an urgent humanitarian goal with which no legislative proposal has sought to interfere. This system has brought in newcomers in an orderly way and reinforced family values in America. At a time when so many areas of law present major problems and are in need of urgent attention, it is difficult to understand why serious attempts are being made to alter a legal system that works well and is in no need of overhaul.

Moreover, a cap could accomplish by implication what the bill cannot do directly. The legislation proposes serious cuts in the fifth immigration preference for brothers and sisters of U.S. citizens. Under a cap, the danger exists that this preference would, by legislative arrangement rather than by decree, be cut even further. As other preference categories expand even mildly under a cap, fewer numbers are left for lower preferences. The fifth preference could be curtailed through the expansion of immediate relatives of citizens and thus be reduced by the operations of the system rather than by direct legislative action. We ought to take our preference categories more seriously than that and work to preserve fifth preference as long as it is part of the law.

In short, in our view, the cap performs no positive functions, interferes with a highly successful system operating now and would cut down operationally on immigrants the law has deemed appropriate to enter the U.S.

The second deviation in S.358 from the Select Commission recommendations is its proposal to cut back on family preference categories now in the law. Of particular concern to us is the proposed reduction of fifth preference for brothers and sisters of U.S. citizens.

The proposal demonstrates the culturally narrow atmosphere in which much of today's immigration debate takes place. It is said by proponents of the change that brothers and sisters of citizens are somehow "less close" relatives than others or do not fit into an "American" conception of a family. This contention ignores the family structures of Asian, Hispanic, Italian, Jewish and other families in which siblings are integral members of the circle of close relatives. Moreover, these cultures are integral parts of the American pluralistic framework; to posit an "American" culture independent of them would be to accept an intolerably narrow construct. Good legislation should seek to encompass, not reject, the many cultures that lend strength to this country. Only by maintaining a preference for brothers and sisters can immigration legislation accomplish this goal.

It is particularly painful to note the overheated and inaccurate rhetoric which has recently accompanied discussion of fifth preference. Those who would curtail entry of brothers and sisters have charged that this preference allows the entry of "nieces and nephews" and, further, that long backlogs make this preference a "myth." It ought to be plain to anyone remotely familiar with the law that no preference exists for nieces and nephews. To employ this rhetoric will result only in inaccuracies and ill-feeling; it will add nothing constructive to public discussion. Moreover, over 65,000 immigrants enter each year as brothers and sisters of immigrants. They are real people, not myths.

It is also necessary to gauge the actual affects on the American population if S.358 were to pass in its current form. Most of the losers of immigration numbers through curtailing the fifth preference would be Asians and Hispanics who use this category most heavily. Most of the gainers -- by design -- of the new independent category visas would be white Europeans. The ethnic tension this would produce is totally unnecessary since there is no good reason to cut fifth preference. Leaving it intact would produce a "win-win" result, since Europeans would then add to the current flow rather than substitute for a portion of it.

These two deviations in S.358 from the Select Commission recommendations are rectified in a bill on legal immigration introduced by Senator Paul Simon of Illinois. The Simon Bill, S.448, adds an independent category to the immigration law, again in keeping with the Select Commission recommendations, but does not impose a rigid cap or curtail entry of brothers and sisters of citizens. We believe S.448 should get a full and fair hearing in the Senate. We earnestly hope that there will be no rush to pass legislation that will have the effect of passing over S.448's very constructive proposals.

Three final points need to be made in commenting on the proposed legislation:

First, it is often overlooked that immigration law affects not only potential newcomers from abroad but also American citizens who desire ardently to be reunited with their relatives. A reduction of family preference of any kind will therefore take a cherished equity away from a significant number of citizens. This must be taken into account in any action aimed at changing family unification.

Second, we endorse the intent of both S.358 and S.448 to add a new stream of "independent" immigrants to the current flow. Our entry pool should be more ethnically, economically and culturally diverse. New proposals should take care to preserve this diversity among the new independent immigrants. To the degree that points for entry qualifications are given for high educational attainment or for prearranged employment with an American firm, the danger exists that an applicant will already be so tied into the American social and economic structure that the concept of independent or "new seed" becomes meaningless. The Select Commission's proposals aimed at diversifying the flow; we should make sure that new proposals really achieve that goal.

Finally, both S.358 and S.448 constructively call for a regular review of U.S. immigration policy and its effects on American society. We believe that a new look at legal immigration on a regular basis is a worthy undertaking. But, in our view, any changes on the basis of this review should be scrutinized and passed by the Congress itself. The Constitution properly gives to Congress the responsibility to set immigration policy. It should act on the recommendations of experts but not cede its authority to them. Both bills are constructive in this regard, but we have a preference for S.448, since S.358 leaves open the possibility for slight adjustments to immigration numbers on the basis of a review procedure without Congressional affirmation.

In sum, we believe that a new consensus is emerging on general immigration reform which recognizes the positive nature of legal immigration for the U.S. But disagreements on key issues remain. We hope that time is allowed in the Senate debate for a full airing of these differences since their implications are so important for our country.

National Association of Latino Elected and Appointed Officials
. . . and the people who support them

NALEO Board of Directors

Hon. Edward R. Roybal
Member of Congress
President, NALEO

Dr. Harry Pachon
Executive Director
NALEO

Mr. Alex Armendaris, Pres.
Market Growth, Inc.

Hon. Polly Baca
Vice-Chair
Democratic National Committee

Hon. Henry G. Cisneros, Mayor
City of San Antonio

Hon. Angelo Del Toro
New York State Assembly

Ms. Rita Di Martino
AT&T

Hon. Robert Garcia
Member of Congress

Mr. David Lizarraga
Chairman & CEO
TELACU Industries

Hon. Manuel Lujan, Jr.
Member of Congress

Ms. Gloria S. Martinez
Financial Consultant

Hon. Gloria Molina
Councilmember
Los Angeles, CA

Mr. Louis F. Moret

Hon. Solomon Ortiz
Member of Congress

Hon. Bill Richardson
Member of Congress

Mr. Edward Romero, Pres.
ASI

Hon. Ileana Ros-Lehtinen
Florida State Senator

Ms. Maria Elena Torano, Pres.
META

Hon. Art Torres
California State Senator

Hon. Esteban Torres
Member of Congress

Ms. Cathi Villalpando
Senior Vice President,
Communications International

Harry Pachon, Ph.D.
National' Director
National Association of Latino
Elected and Appointed Officials (NALEO)
and Kenan Professor of Politics
at Pitzer College in Claremont, Calif.

Before the Senate Judiciary Committee
Subcommittee on Immigration
and Refugee Affairs

Friday, March 3, 1989

Chairman Kennedy, Senators Simpson and Simon, invited panelists, the National Association of Latino Elected and Appointed Officials (NALEO) welcomes the opportunity to submit testimony regarding the current legal immigration reform bills being considered by the Senate.

NALEO is a non-profit, non-partisan research and advocacy organization that focuses on issues that impact on the nation's growing Hispanic community. NALEO's members include the more than 3,300 Hispanic elected officials and their supporters.

During the past four years, NALEO has taken the lead in researching and providing current information on the U.S. naturalization program. Through its outreach efforts, NALEO has directly impacted thousands of people who seek U.S. citizenship. For the past 18 months, NALEO has worked to focus attention on the second step of legalization, which is when millions of temporary residents adjust to permanent residence.

While I would like to focus on the naturalization aspects of the proposals, I would first like to touch on a few other important aspects of today's legislation. Although other testimony today will address these pressing problems in greater detail, I would like to make note of a few major problems.

Like their predecessors, today's immigrants play an important role in the economic and social expansion of the United States. Nonetheless, the current U.S. immigration system is bogged down and in need of reform.

708 G Street, S.E.
Washington, D.C. 20003
(202) 546-2536

1114 S. Lorena
Los Angeles, CA 90023
(213) 262-8503

Immigrants seeking to enter the United States are faced with a cumbersome and slow bureaucratic system and, worse yet, an ever increasing waiting period for visas. The system for admitting immigrants is characterized by major backlogs that hinders the original intent of the system -- to efficiently allocate visas for family reunification and to meet the nation's labor demands.

For example, Mexican immediate family members (spouses and children) of U.S. permanent legal residents are presently faced with a 11-year waiting period before being issued visas. Immediate Philippine family members of U.S. legal residents can expect a waiting period of eight years.

NALEO applauds the fact that the Senate seeks to address the problems facing the immigration process. Nevertheless, NALEO has some serious reservations about one of the major bills, S. 358. I would like to single out a few of NALEO's concerns:

- S. 358 seeks to gradually shift priorities away from family reunification. More importantly, it redefines "family" immigration for U.S. citizens and U.S. legal residents.
- S. 358 would set an overall ceiling on immigration that includes immediate relatives of U.S. citizens, as well as establishing a "7-percent formula" that punishes countries with large visa demands. In NALEO's analysis, if this becomes law, Mexico would immediately face a backlog of approximately 30,000 visas in the first year. It is entirely foreseeable that it would push waiting times back 15 years to 20 years.
- S. 358 does not adequately address the current preference system backlogs that plague the system, and S. 358 may create more serious strains.
- S. 358 does not address the impact of the legalization program created by the Immigration Reform and Control Act (IRCA), particularly the demands that the newly-legalized population will place on the preference system.
- S. 358 seeks to create an independent immigration category that grants visas based on a point system that gives greater weight to English-speaking candidates.

Alternatives

There are reasonable alternatives to the current problems. Senator Paul Simon introduced legal immigration legislation (S. 448) that would more effectively deal with the above mentioned problems. S. 448 contains several important elements that could help resolve some of the today's immigration problems. Included are:

- S. 448 would leave the preference system definitions intact, while logically dealing with the second and fifth preference backlogs by adding additional visas.
- S. 448 would eliminate the likely strain on second preference by allowing ineligible immediate family members of newly-legalized residents to obtain work authorization and legal status, thus avoiding the need for them to obtain visas through the backlogged second preference.
- S. 448 would not establish an overall immigration ceiling, and maintains the system by which U.S. citizens are able to bring in their immediate family members without infringing on the overburdened preference categories. S. 448 also does not have the 7-percent country formula.
- S. 448 would establish an independent visa system that does not count English-language skills as an eligibility criteria.
- S. 448 continues to stress the value and tradition of family reunification as a basis of immigration.

Naturalization

Now, I would like to turn my attention to the important naturalization provisions contained in S. 358 and S. 448.

S. 448 would make several changes to the current naturalization process that would create an efficient and less confusing process. It also continues to build on our nation's high ideals of citizenship and full participation by legal immigrants. As I mentioned earlier, NALEO has worked nationally on an aggressive U.S. citizenship research, advocacy and promotion campaign. For all immigrants, becoming a U.S. citizen is not a frivolous endeavor. For Latino immigrants in particular, the proximity to their former countries makes the transition to U.S. citizenship a process that is given much thought and consideration.

Three-Year Waiting Period

Currently, legal immigrants must wait five years before applying for U.S. citizenship, or three years if they are currently married to a U.S. citizen.

NALEO strongly supports the uniform three-year waiting period for naturalization contained in S. 448. Adjusting the waiting period would serve both the nation and the applicant in several ways.

First, it would help permanent residents move more quickly to U.S. citizenship, which would relieve any pressure on the already stifled second preference category. Since much of today's discussion is revolving around the backlogged preference system, particularly the second preference, S. 448's measure would help to abate a potentially disastrous situation -- a likely 20-year backlog on second preference for Mexico. With the likely onslaught of nearly 3 million permanent residents from the legalization program, with more than 70 percent being of Mexican origin, allowing them and other permanent residents to apply for U.S. citizenship after three years would permit the reunification of families.

Second, the five year waiting period is both arbitrary and confusing. Since the current naturalization process allows some people to become U.S. citizens after three years, while making others wait for five years, would-be applicants are often times bewildered by this cumbersome detail. For the Immigration and Naturalization Service, this uniformity would make the bureaucratic process a little easier. Finally, the initial waiting period is only a mirage since all applicants encounter further delays -- of more than a year in some areas -- in the processing of papers and scheduling of court appearances.

65-Year-Old Rule

To become a U.S. citizen, an applicant must pass an INS-administered oral and written exam that tests their knowledge of U.S. civics and English. In the early 1950s, a naturalization provision was made to allow people older than 50-years and who have lived as permanent residents for 20 years or more to take the citizenship exam in their native language. This is known as the 50-20 rule, and it has benefited many older permanent residents.

S. 448 takes the positive step of creating an additional rule that will benefit older residents. S. 448 would permit people who are older than 65 and lived as permanent residents for 10 years to take the test in their native language. NALEO strongly supports this provision.

While most of these permanent residents may have an understanding of English, many older residents are more comfortable conducting the interview in their native language.

Calls to NALEO's toll-free hotlines by older residents often times focus on this issue. These callers say they are nervous about the interview process and the language requirement. If they do not qualify for the 50-20 rule, some people may not apply for U.S. citizenship. That is wrong, and this nation's older residents deserve better treatment.

"The cognitive obstacles to learning a second language at that age are so great that I believe this exception from current law is warranted," Senator Simon aptly said in his floor statement on this issue.

It is a matter of courtesy towards older residents who seek to become full, active members of the United States. Creating a 65-10 rule in addition to a 50-20 rule would benefit a pool of people that the United States considers to be a valuable resource -- their older residents.

Outreach

NALEO is pleased to have worked closely with Senator Kennedy's staff in 1988 on the issue of naturalization outreach.

Today, the United States does nothing to promote the responsibilities, benefits and opportunities of becoming a U.S. citizen among the legal resident population. Permanent residents register for selective service, serve in the armed forces and pay taxes.

Yet, after years of permanent residence, they are not informed that they too can become U.S. citizens. Four years ago, when NALEO started its naturalization outreach program, it was told that Latino legal residents just were not interested in becoming U.S. citizens. NALEO was told that the Hispanic foreign born did not seek U.S. citizenship because they would eventually return "home." Those arguments were bogus. Millions of foreign-born Latinos have made the United States their home, and they plan to continue residing here.

In fact, more than 150,000 calls have been placed to NALEO's U.S. citizenship toll-free hotlines in the last three years. In December 1988, NALEO and UNIVISION, the nation's largest Spanish-language network with more than 490 affiliates, launched a new and aggressive public service announcement (PSA) campaign that promotes the responsibilities and opportunities of U.S. citizenship. NALEO's hotlines were jammed with callers. In December, NALEO received almost 20,000 calls. In January 1989, it received more than 30,000 calls.

S. 358 contains a unique provision that seeks to build an outreach program that would inform millions of would-be citizens of their opportunities. S. 358 would provide $1 million a year for outreach to permanent legal residents about U.S. citizenship. That money would also flow to the community-based organizations and other groups that seek to work with the naturalization program. These groups have a solid reputation in their communities and could effectively communicate with the legal resident population. These organizations, along with the INS, could fill the naturalization information void.

NALEO recommends that a special mailing be made to all permanent residents when they are eligible to apply for U.S. citizenship. Such a mailing could include the basic requirements and where applications could be obtained.

Administrative Naturalization

Naturalization is basically a three-step process. First, a legal resident submits a U.S. citizenship application to the INS. Next, the applicant is called in for an interview and exam. Finally, if the applicant meets the requirements and passes the exam, the permanent resident is sworn in by a court.

While this sounds simple, the process is wrought with delays. In Houston, it takes up to 19 months before a person passes through the naturalization system. In Dallas, it is up to 20 months, in Los Angeles it is 18 months and New York it is 12 months. In most cases, half of the waiting time is for the courts. In Houston, for example, it takes up to one year for a court date.

S. 358 contains a provision that could help to abate this situation. S. 358 would permit an optional administrative naturalization. In essence, if the INS determines in the interview that the permanent resident is eligible for U.S. citizenship, the applicant can be sworn in at the INS office instead of waiting for a court appearance. This could cut the naturalization time in half for many applicants who select this route. In addition, it would reduce the backlogs at the courts -- which would likely speed up those applications that are being processed there.

Administrative naturalization can work if it has certain provisions. First, it should be an optional method. Some applicants, as well as judges, enjoy the court room ceremony. Second, applicants should always have the opportunity for a court review if their applications are administratively denied by the INS. Finally, applicants should be informed that they have the administrative option.

Conclusion

U.S. citizenship is the often overlooked obstacle to social, economic and political advancement of law abiding, taxpaying permanent residents. Today, one-third of adult Hispanics cannot vote, serve on grand juries or participate fully in the society they live in only because they are not U.S. citizens. While some permanent residents may opt to retain their current nationality, many more are interested in becoming U.S. citizens. Naturalization should be accessible for all people, and today's legislation takes steps to makes that a reality for many more people.

Thank you for this opportunity to submit testimony.

Irish Immigration Reform Movement

33-01 Greenpoint Avenue • Long Island City, Queens, New York 11101 • Phone 212-265-4250

Testimony Submitted to the

Senate Subcommittee on Immigration and Refugee Affairs
Committee on the Judiciary
Regarding S. 358, "Immigration Act of 1989"

By

Sean Minihane
National Chairman
Irish Immigration Reform Movement
33-01 Greenpoint Avenue
Long Island City, NY 11101

March 2, 1989

ENDORSERS

Bill Burke
    Bank of Ireland
Tom Connaughton
    President Emerald Society
Dorothy Hayden Cuddihy
    President of Kilkenny Assoc.
John Cuddihy
    President of Clare Assoc.

Frank Feighery
    President United Irish Counties
John Finucane
    Director of P.E.C.
Dennis Ford
    President of Cork Association
Gerry Keogh
    President of Brehon Law Society
Msgr. James Murray
    Catholic Charities of Archdiocese of NY

Tommy Makem
    Irish Performing Artist
Cardinal Manning
    South California
Fr. Sean McManus
    Irish National Caucus
Nick Murphy
    National President AOH

Paul O. Dwyer
    Former President of City Council of NY
    Founding member and President of
    Brehon Law Society
Joe Roche
    Former President A.O.H.
    Political Director A.O.H.
William Shannon
    Former U.S. Ambassador to Ireland

PREAMBLE

Mr. Chairman and distinguished members of the Subcommittee, we are pleased and honored to have the opportunity to present this testimony today on behalf of the Irish Immigration Reform Movement (IIRM) concerning the bill introduced by you and Senator Simpson, S. 358, "Immigration Act of 1989."

The IIRM is a true grassroots organization formed in May, 1987 to promote an overall reform of our nation's immigration laws, including reforms which will lead to a greater diversity in our Nation's legal immigration pool. In this short period of time, we have opened chapters in seventeen states and have established an effective working relationship with the Ancient Order of Hibernians, American-Irish Political Education Committee, the Irish American Labor Coalition, the Irish American Business Coalition, and similar organizations throughout the country.

Because of our close connections with recent Irish immigrants, we feel that we have a vantage point which gives us a special insight into the problems faced by Irish citizens who seek to immigrate to America.

We wish to express our sincere gratitude to Senators Kennedy and Simpson, who have kept alive the important issue of immigration reform in the recent past.

The Irish Immigration Reform Movement believes that while this bill is imperfect from our standpoint, it does represent considerable progress over existing law. This legislation, with modifications discussed below, needs to move forward.

Ireland is a small country, but it has written its name in large letters in American history.[1] Two hundred fifty-seven Irish immigrants have received the Congressional Medal of Honor. Over forty million Americans lay claim to Irish ancestry.

An important element of S. 358 is the creation of the meaningful independent immigrant category. This category serves the United States' national interest by introducing a measure of skilled immigrants who will help our country compete in an increasingly complex global economy.

---

[1] Ireland is a small country. The whole island contains approximately 4.5 million people. In the years immediately preceding the 1965 Act, it often did not use its entire quota, except in years when there were special economic or political difficulties. If it used all or even a substantial portion of the maximum 20,000 visas allotted to it by law now, it is hard to envision any scenario in which Irish immigration to this country would not continue to be a small piece of the immigration pie in the long run.

It is important, however, to remember that the new independent category does not eliminate the basic structure of family reunification. Approximately 75% of all visas will continue to be granted on the basis of family preferences without regard to language skills, educational attainments, or occupational requirements. This compares to 85% under the current system.

If this bill, or one like it, had been put in place promptly after the 1981 report of the Select Commission on Immigration and Refugee Policy in 1981, we believe that there would not be a crisis in Irish immigration to the United States such as that which exists today.

Many have characterized this bill as an "Irish bill", particularly because of the points awarded to independent immigrants for knowledge of the English language. However, English is a universal tongue. It is widely spoken as a native or official language in India, Pakistan, the Philippines and, Africa. It is the language of trade for much of the world and the second language of choice for much of Europe and Japan. Therefore, we consider S. 358 an American bill, which will benefit our country enormously.

SPECIFIC REDRESS FOR UNDOCUMENTED IRISH IMMIGRANTS IN THE UNITED STATES

We in the IIRM do not choose to characterize ourselves as the victims of "reverse discrimination." We believe the truth is more complicated than that: we are the victims of unforeseen events and unexpected consequences. The Congress in 1965 attempted to achieve diversity in our immigrant flow and to redress another set of grievances. It attempted to bring in people from all over the world in a way befitting a great country with global interests. But we also believe that the Congress did not intend to repeal the past, or to sever the bonds of culture, tradition and affection which have existed for so long between the people of America and the countries of Europe.

For over 20 years, Ireland has been virtually shut out of the American immigration system. We would be shirking our duty to the people whom we represent if we did not address the issue of the undocumented Irish in the United States. We believe that there may be as many as 150,000 undocumented Irish in the United States today.

We have raised a number of specific proposals to address their needs including opportunities for military service in the National Guard and the active Armed Forces. As Cardinal Law of Boston has recently suggested, it should be possible to craft a specific, limited and nuanced solution to this problem which would take account of the special set of circumstances which have conspired to deprive the Irish of opportunities to immigrate to the United States over the past twenty years.

Recently, Congress offered legalization to over 2.9 million undocumented aliens -- 1.7 million in the general program and 1.2 million in the special agricultural worker program. Out of that number, the Irish applicants can be counted in the hundreds. The paucity of Irish applicants was not for lack of interest, but for lack of eligibility. Most came after the 1982 legalization cut off date, and few worked in agriculture. In light of the growing awareness of the special Irish problem, it should be within the wit and wisdom of man to devise a temporary or special program to meet our need and redress this grievance. The IIRM will be making specific proposals in this regard in the near future.

INDEPENDENT IMMIGRATION

We support the new category of independent immigrants in S. 358 on two major grounds:

(1) it provides a necessary means of broadening and diversifying the stream of immigrants eligible for admission to our country, and

(2) it introduces, in a balanced manner, a visa category designed to satisfy the national interest of the United States.

A. Existing Third and Sixth Preference Categories

The IIRM supports the maintenance of the existing third and sixth preference categories, and the slight increase in visa numbers made available to each category under the terms of the proposed legislation.

However, we strongly oppose the change in the definition of the third preference category which, under the terms of S. 358, would deem eligible only those applicants who hold advanced degrees. We believe this proposal may be based on a misconception about the availability of professionals in several occupations. Some U.S. engineers have claimed, for instance, that there is a surplus of engineers, and that admitting engineers with a bachelors degree under the third preference negatively impacts them.

This may have been true ten years ago. Today, however, the situation has changed dramatically. In a special report entitled "Searching for the Best and Brightest", a magazine which is the bible of the engineering and construction industry recently predicted that by the year 2010, the U .S. could face a shortfall of up to 560,000 engineers and scientists.[2]

Based on this report and similar predictions contained in other reports, such as Workforce 2000 published last year by the U.S. Department of Labor, it is clear that the proposed change in the definition of the third preference category would be against the national interest. The current definition should be maintained.

While we agree with maintaining the third and sixth preference categories, they can only be effective if a streamlining of the labor certification process is instituted, as is discussed below.

B. Selected Immigrants -- The Points System

We believe that a points system is a fair way of selecting independent immigrants and that it is in the national interest. Canada and Australia are already benefitting from the use of a points system:[3] like America, both of these democratic countries share our tradition of receiving immigrants. Further, a points system is inherently flexible and may easily be adjusted to meet the country's labor requirements.

S. 358 presents a points system which would select immigrants based on their ability to contribute to the national interest. We also feel that a points system should identify applicants who will integrate fully into American society. Based on this we advocate the maintenance of the 50 points qualifying mark but suggest that points also be awarded under the following two headings:

(a) Prearranged Employment -- 10 points

- such points would encourage the potential immigrant to arrive to a situation of economic security

(b) Knowledge of U.S. Government and History -- 5 points

- as potential citizens, we believe that all immigrants should participate fully in, and contribute their utmost to, U.S. society. We also believe that they should familiarize themselves with U.S. history, the political system of the U.S., and the democratic principles on which it is based. We believe that any points system should encourage such participation and familiarization by awarding points to potential immigrants for knowledge of U.S. government and history.

---

[2] Engineering News Record, October 20, 1988, p 26.

[3] See remarks attributed to Mr. Gerry Weiner, the Canadian Minister of State for Immigration, Fortune, May 9, 1988.

The independent immigrant category replicates the experience of earlier immigrants who came here on their own and who helped to build our country. While we believe in the family reunification system as the basic foundation of our immigration policy, we believe there should always be a category open to independents.

Labor Certification

S. 358 suggests certain changes to the existing law concerning labor certification. These and other changes are definitely needed. The 1981 report of the Select Commission on Immigration and Refugee Policy summed it up well:

> "The low priority accorded nonfamily immigrants and a cumbersome labor certification process for clearing them for admission has made it difficult for persons without previous family ties in the United States... to immigrate."

Because of growing backlogs in the current labor certification system, the lengthy waiting period has made it untenable for many potential sponsors. To take a simple example, a contractor who wishes to hire a skilled craftsman today is forced by the current system to wait up to three years before the required paperwork can be processed. Mr. Chairman, very few small businessmen or women can project that far in advance.

To streamline the system, we propose the following:

(a) once an applicant has filed a sponsorship petition under the third or sixth preference category, the petition will be summarily reviewed for conformity with the requirements of the law; upon approval of conformity the applicant will be issued with a temporary work permit, to remain valid until such time as the petition has been evaluated. The temporary visa should be issued no later than 6 weeks after the petition has been filed.

(b) ~~Further~~ resources should be made available to the U.S. Department of Labor and the various state Departments of Labor, to ensure expeditious handling of petition cases.

In order for these proposals to take effect, S. 358 must be appropriately modified, and we urge expeditious action on this front.

CITIZENSHIP WAITING PERIOD

We concur with the proposal contained in the "Proposed Reagan

Administration Legal Immigration Reform Plan" which was circulated last year, that the required residency period for permanent residents prior to eligibility for naturalization be reduced from five years to three years, and urge that S. 358 be so modified.

CAP ON IMMIGRATION

While the Irish Immigration Reform Movement can understand the considerations which motivate those who believe that an overall cap on legal immigration is necessary, we do not feel that such a cap is required at this time. Indeed, we believe that the weight of economic and demographic evidence suggests that a higher level of immigration can be sustained over the next several years.

FAMILY PREFERENCES

The Irish Immigration Reform Movement has always viewed the inclusion of an independent immigrant category as an additive process as it relates to the family preference system. We have no per se objection to the family preference system except to the extent that by reason of an historical accident we are locked out of that system. Further, we have no prospect of getting into the system without Congressional intervention.

CONCLUSION

Every time a proposal to create an independent immigrant category based on points is placed before the Congress, there is an army of naysayers. In our testimony before the House Subcommittee on Immigration, Refugees and International Law Last year, we characterized their modus operandi as "paralysis by analysis." We are pleased to see you moving forward, Mr. Chairman, and refusing to be paralyzed.

The Act of 1965 has clearly had the unintended effect of curtailing immigration from Europe and limiting the diversity which it intended to create. Only 11% of the people who were admitted legally to the U.S. in FY 1986 were from Europe and only 0.33% were from Ireland. The bill seeks to provide a modest change in the law to allow new seed immigrants from the traditional sources of American immigration.

It is altogether proper and appropriate that the Congress take steps to achieve diversity. Diversity, after all, was the primary goal of the 1965 Act. The Congress is the trustee of all of the American people, not simply those who currently benefit from the law.

We believe that the past should be considered. Never again can we impose the rigid structures of a national origins quota system locked in perpetuity against all who do not meet current criteria. Rather, we would hope that the Congress would take into account the contributions which have been made to American culture by the Irish and other Europeans so that succeeding generations of native born Americans will have a vital and continuing interest in immigration -- so that they will perceive the inherent fairness of the system.

The introduction of an independent immigrant category will be a major improvement in our legal immigration system and we support Senators Kennedy and Simpson for their innovation and courage. We hope that the specific plight of the Irish is understood more widely as a result of our statement and we look forward to the necessary legislative correction to address this urgent need.

We fully understand that it is important to test our assumptions by trial and error, and by experience with the facts. We think that 20 years in which Irish immigration has been virtually extinguished is a long enough period in which to derive a conclusion about the impact of the 1965 Act on the Irish, and others.

There is a crisis in the American Irish community that has been smoldering for over twenty years. At the risk of sounding redundant, we simply must have action now.

Thank you for your attention to our position.

WRITTEN TESTIMONY OF

HOWARD HOM, ESQ.

ON BEHALF OF
PACIFIC LEADERSHIP COUNCIL
LOS ANGELES, CALIFORNIA

IN RE: S. 358
S. 448

SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMITTEE ON IMMIGRATION, REFUGEES AND INTERNATIONAL LAW

MARCH 3, 1989

Thank you for the opportunity to participate in this hearing. Ever since the passage of the Immigration Reform and Control Act of 1986, discussion of immigration matters has become commonplace, appearing routinely in the newspapers, on radio or on T.V.

For too many years, the immigration laws and the agency charged with enforcing the laws have been treated as step-children of the federal government. When I worked for the Immigration and Naturalization Service, I and my colleagues felt this lack of support. After working five years in the Los Angeles District Office, I left to go into the private practice of law with emphasis on immigration matters. In the past seven years in private practice, I have continued to have the feeling that the immigration laws have not been enacted and applied with an eye towards the real, practical effects on real live human beings.

The testimony of prior witnesses reflect eloquent and thoughtful statements on how this Congress should handle immigration reform. Commentators in editorial pages, government officials and representatives of various organizations have all weighed into the fray.

In my law practice as well as pro bono participation in various community forums, I represent Chinese-Americans, Taiwanese-Americans and other Asian-Pacific peoples.

When one speaks of the potential passage of legislation that may again return our country to racially biased quotas, a fear chills the heart of every Asian-Pacific person. Members of the committee and the population at large have all heard about the dreaded Bermuda Triangle - that geographic region in the Carribean and Atlantic Ocean where planes and ships may travel into but only a few can leave, with the others mysteriously left behind. Similarly, in the annals of immigration history there existed the Asia-Pacific Triangle and its predecessor, the Asiatic Barred Zone. The term "Asia-Pacific Triangle" was used in the Immigration and Nationality Act of 1952 at Section 202(b) and is described as applicable to any immigrant "who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia Pacific triangle comprising all quota areas and all colonies and other dependent areas situate wholly east of the meridian sixty degrees east of Greenwich, wholly west of the meridian one hundred and sixty five degrees west, and wholly north of the parallel twenty-five degrees south latitude". In this Asia-Pacific triangle, human beings by virtue of being born within that geographic area were unable to leave and come to the U.S. unless they were one of the 100 lucky ones authorized by law. This vicious triangle was not abolished until the 1960's.

Senate Bill S. 358, raises the specter of the return of the Asia-Pacific Triangle. In place of the prior quota of 100 persons a year and in place of the current 20,000 persons per country per year, S. 358 would establish a complicated numerical formula to adjust the numbers of immigrants each year. Gentlemen, I challenge you or your staff to work through this formula and justify it to your constituents. If the Senate and the House wish to reduce the number of immigrants from the Asian Pacific area, be courageous enough to say so and accept the political consequences. Do not hide behind mathematical equations that appear fair on their face but serve merely to camouflage its discriminating effect. A Court of Appeals justice once wrote that when one deals with immigration matters "we are in the never-never land of the Immigration and Nationality Act, where plain words do not alway mean what they say." Yuen Sang Low v. Attorney General, 470 F.2nd 820, 821 (C.J. Duniway, 9th Cir. 1973). Please make any new law comprehensible.

Beyond the numbers, let us look at the secondary effects of the proposals. I would like to address several particular sections of S. 358. First, the relative or the family connection immigrants: present law permits the unmarried sons and daughters of permanent residents to immigrate. S. 358 (Sec. 103) would limit the category to the unmarried sons and daughters under 26 years of age. I wish to call to your attention that many countries around the world require exit visas of its citizens, unlike this country. For example in Taiwan, boys over the age of 14 years cannot obtain an exit permit until fulfillment of military obligations. If the boy is unable to do so prior to his 26th birthday he would not be able to immigrate with his family. However, his sisters, not being subject to military duty may obtain an exit permit to come to this country. Should the law of this country give favorable treatment to the young oriental woman but not to her brother? Let us preserve the present system and avoid such an insidious side effect.

The present system also permits brothers and sisters of U.S. citizens to immigrate. S. 358 would limit this category to the never-married brother or sister.
One theory for the restriction [illegible]t the married brother or sister is so far removed from close connection to the family that restriction of this category would do little harm. I support an amendment which preserves the present system and recognizes the importance of nurturing the family. The social, economic and cultural benefits of the extended family have been discussed by experts before. In particular, Chinese families rely on the extended family in doing business. See "The Chinese Asian Success: Family Ties," by Joel Kotkin, Los Angeles Times, August 21, 1988, Part V, p. 2. Recent studies indicate that Americans are also beginning to rely on the extended family for investment. See "Extended Family As Investing Unit," by Jan M. Rosen, The New York Times, July 23, 1988, Part Y, p.18.

Another theory for the restriction is that the extremely long waiting periods of the current system give rise to false expectations of future immigrants. I respectfully suggest that the long waiting periods may be exactly what some immigrants are seeking. I have represented many aliens who upon returning from a stay abroad have been threatened with cancellation of their permanent residence. WHY? Because the law requires that an immigrant reside permanently in this country. Extensive and frequent stays abroad or merely a single long absence is enough to trigger the cancellation process. The solution for many is the extended brother and sister category - queue up and wait - and by the time your turn comes, you're probably ready to permanently relocate.

I would at this point like to turn to the section on "employment creation" in Sec 103 of S. 358. One of the fundamental tenets of immigration policy is to protect the American labor market. This goal will be served by permitting certain aliens to immigrate if jobs are created in this country by the alien permitted to come. I would like the committee to consider an additional perspective of this job-creating immigration. Why don't we also tie refugee admission numbers into this equation? Many in our society are concerned about the financial strain on our economy and government services by the current levels of refugee admissions. Suppose, for every job created, or every dollar invested we permit additional persons to enter as refugees. The exact formula can be worked out in future studies.

I also urge passage of a provision which would provide for transitional visas for spouses and children of legalized aliens. I further suggest that this should be expanded to include the spouse and children of aliens granted registry under Section 249 of the Immigration & Nationality Act. Many of the individuals who would benefit from this amendment are persons who have been physically present prior to January 1, 1982, but could not qualify for legalization because they had maintained lawful status. Many of these are persons who entered with lawful student visas from Asia and are facing tremendous backlogs to immigrate as the spouses or children of a newly registered alien. For example, I know of an individual, a university professor from Hong Kong who has just obtained residency under the registry law; but, because he and his wife were both born in Hong Kong, her spousal petition is in a category that is backlogged to applicants who file in 1984. An alternative to providing an additional visa category is to permit such spouses and children to immigrate as dependents who are "following to join" the principal alien. Current Section 203 (a)(8) relating to the present preference categories and the various proposed amendments take into account this principle. But the registry section does not, thereby requiring a second step processing.

Another anomaly of the current law that S. 358 does not address is the fact that the concept of dependents following to join or accompanying a principal alien is not found in the immediate relative category of current Section 201. For example, take the case where a woman who had become a naturalized ciizen was attempting to immigrate from Hong Kong hor mother and step-sister who was 17 years old. Section 201(b) would permit the mother to be classified as an immediate relative entitled to immigrate immediately. However, the minor child could not come as the dependent of the mother because Sec. 201, unlike Section 203(a)(8) governing the other preferences does not account for dependents. Therefore, the child would have to be left behind in Hong Kong while the mother immigrates and await a second preference visa petition as the unmarried daughter of a permanent resident. This wait could be for many, many years. I think that this omission should be addressed as part of any immigration reform.

In closing I wish to reiterate my opposition to various portions of S. 358. I urge you to consider some of the additional amendments that I have proposed and which I would be happy to discuss in more detail. This whole area of immigration reform is becoming more and more controversial. Many of the persons affected directly are not able to travel to Capitol Hill to give their opinions. I suggest that hearings also be held on the West Coast where there is a tremendous concentration of immigrants.

In this manner we can truly have a fair and equitable immigration policy.

OPENING STATEMENT OF HON. PAUL SIMON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator SIMON. Obviously, there is much in the bill that I introduced and the bill that Senator Kennedy and Senator Simpson have introduced that is very similar. There are differences and we want to explore some of those differences today.

Family reunification clearly ought to be speeded, and I think can be. I hope we can work something out that can move in that direction. I don't want to move away from that. Currently, spouses and children of permanent residents from some countries must wait over 10 years to be reunited. That clearly is an intolerable wait.

Currently, United States citizens of Asian or Mexican ancestry are forced to wait upward of 15 years to be reunited with brothers and sisters. The General Accounting Office is going to testify today that that wait could go as high as 75 years if we change the law in ways that I think are not desirable.

My hope is that we can come up with something constructive that will assist those who need assistance and, I would add, if the administration does not move on the refugee problem quickly, that can be of assistance to refugees.

My hope is that the administration will move and that legislation will not be necessary for refugees. But it may be necessary, and I think we should be prepared to act in that area.

Thank you, Mr. Chairman.

Senator KENNEDY. Thank you very much, Senator.

JUSTICE DEPARTMENT AUDIT OF INS

Before, Mr. Nelson, we get into the subject matter of our hearing, I think you are familiar with the story that was in the Washington Post raising some serious criticisms of the administrative shortcomings within certain quarters of the Immigration Service.

The subcommittee intends to take seriously our oversight responsibility, and it has already been my intent consistent with past practice to schedule oversight hearings early in the year. So, we will be conducting those hearings soon. We will have an opportunity then to review in detail the reports that came out today, as well as your response to those criticisms.

The INS has seen rapid growth in the past few years. The agency has been given massive additional responsibilities. I have a high regard for the officers in the field who have made this growth possible. The budget has doubled in 5 years from $500 million to $1 billion.

INS has coped with two huge, new programs in the 1986 law, the amnesty, as well as the employer sanctions. Most of the increases have been on the enforcement side, and this report shows a shortcoming in the adjudication side.

For the past couple of years, we have been reporting backlogs in the northeast region which you are familiar with, which have prevented many American citizens from expeditiously reuniting with their immediate relatives.

So, after years of improved enforcement, it is now time also to improve the efficiency of INS adjudication, such as the expeditious handling of requests of American citizens to reunite with their relatives and the fair and expeditious handling of asylum claims.

I don't want to spend too much time on this today, but I thought you might want to respond to some of the criticism and what steps you might be taking to deal with these criticisms.

Mr. **Nelson**. Thank you, Mr. Chairman. I do appreciate that opportunity, and Senators Simpson and Simon, also. It is not too often that we have the chance to testify on the day that we see such a nice article on the front page of the Washington Post. [Laughter.]

So, I do want to briefly respond and will submit some materials to the committee, since this was leaked out by someone, and unfortunately not leaked within the total context.

I might give you two quotes that I think are very relevant to what the impact of that article was, which, of course was—"disarray," I believe, was the lead word. Last Thursday, Attorney General Thornburgh testified before the Senate Appropriations Committee and I was there with him, and on page 16 of his testimony, I will just read part of it because he is talking about some of the INS budget, and it reads as follows, "considerable increases in productivity and efficiency in the last few years." So, I would say that is a little contrary to that audit report.

And another quote, or a paraphrase of a quote from the Justice audit person who debriefed me 2 weeks ago when I asked, well, did he reflect some of the big picture items about program accomplishments and efficiency—and Mr. Zimmerman, the head of the audit, said, in effect, "oh, we don't ever report good news; we only list exceptions."

Mr. Chairman and members of the committee, I think you know me well enough from 7½ years here to be open and candid and honest, and I will be that just right now.

That report as reflected in the newspaper was either a total hatchet job or grossly deficient audit procedures, or a combination of both, and I will stand by that. When I talked to Mr. Dickman, one of Attorney General Thornburgh's people, I, a week ago, showed him this in handwriting, a pie, if you will, with a narrow wedge, and the big pie is total INS program effectiveness. The narrow wedge is audit-addressed deficiency.

I think what the audit absolutely fails to do is to give any big picture whatsoever. And I would like to submit to the committee three items. One is the audit itself. Since it has been leaked, I think it only properly should be submitted to the committee; second, a document that we submitted to the Attorney General at the same time the audit went up, listing a couple of pages on each INS program, the program accomplishments and efficiencies, and I think they are quite demonstrable in all aspects. And, of course, that is part of the audit report and, unfortunately, as often is the case, didn't get reflected in the press reports.

And the third item is a letter that, actually, I had signed yesterday, actually, before the press item came out to the Attorney General, again, just hitting a couple of the high points and including this same pie graph, and it is just an example.

You mentioned, Mr. Chairman, the legalization. This was the largest legalization program in world history by a factor of six times. Six months after the new law was passed, we opened up 100 offices, hired 2,000 people, printed millions of forms, put on a massive publicity campaign, opened in time, and then the program ran its course, we know very well—3 million applicants received; 85 percent of the people came directly to INS—even by the critics, a very successful program.

What does the Justice audit point out? Well, they reviewed a few files and they found that we might have approved some that shouldn't have been approved and denied some that should have been approved. Well, I would say, you know, what else is new, with 3 million applications? Of course, there will be some of those.

So, I think overall—and one other example, not to delay the time here, on the user fee, and this relates to the Service, something that INS, Justice, and OMB and the Congress ought to be very proud that we came up with, a user fee that was able to add some 600 new inspectors to process people and not costing the taxpayers anything.

And, again, the audit says, well, we ought to have a better procedure for deposit of the checks and a lock box system. Again, probably a reasonable recommendation, but it doesn't reflect the overall program. So, it was grossly deficient in that way.

Now, even if you will accept every point in that audit as accurate—and, clearly, they are not all accurate, but let us accept for discussion that they are. Even with that, I think this pie chart demonstrates that these are typical kinds of management issues that any company—General Motors, any corner grocery store—and, certainly, the U.S. Senate or any administrative body all have management issues that need improvement, and certainly INS does, and we acknowledge that.

A lot of these items have been worked on, known; some haven't been. So, I think the only point I would like to emphasize is that while there might be some reason to pursue this issue, and we recognize that, we will stand by the record, the accomplishments in all these programs.

And we are working on and will submit by the end of next week to the Attorney General a point-by-point response to each of the audit points. And at the time we submit that, as I say, by the end of next week, we will also submit a copy of that to the committee.

So, if I could offer these items for the record, we would appreciate it.

Senator KENNEDY. Yes, we will insert those in the record. We will make that part of the file. I am not sure we want to print all of that.

I don't want to take too much time because there is a series—we welcome your general comments—but there is a series of specific items which are mentioned here. If you can give us a response to each of those items, and then we will have a chance perhaps to have another hearing or review those, because we haven't seen that report ourselves and we want to give you an opportunity to respond to that and then we will consider what additional steps we will take.

Mr. NELSON. We will, as I say, within the week submit a detailed response to every one of the audit comments.

Senator KENNEDY. I would ask my colleagues if they want to inquire in this area and then we will move to the subject of the hearing.

Senator SIMON. Just one question, and that is the statement about the number of 23,059 certificates of citizenship and naturalization which apparently were stolen. Can that be accurate?

Mr. NELSON. Senator Simon, we are looking into that. That was one of those findings that we were not aware of. That was out of the Miami office. Our district director down there has given an interim response and he is not aware that that, in fact, has happened that they were stolen, and that is being looked at.

So, that is one of those that we will need to get the detailed information, but at this time we don't acknowledge that that is necessarily the case. Obviously, we are going to pursue whether they were stolen, misplaced, or are accounted for.

Senator SIMON. If I could just follow up, what kind of security do you have in an office? Obviously, these are very valuable documents. How do you secure these documents?

Mr. NELSON. I can't give you the exact situation on that. We obviously try, Senator, to have security on all the various confidential type forms, including the nationalization certificates, and I think overall our people do a very good job. I am sure there are occasions where they don't and things are misplaced.

You know, when you look at the millions and millions, 350 million people admitting themselves that are coming into our ports of entry, and millions of applications, we are dealing with huge volumes. So there is always going to be some slippage.

But, overall, I believe the security of the forms is good. I don't have the exact procedure, but normally they do lock those types of things up and have controls as to who can get to them, and so forth. They do have a numbered system, also, that allows for accountability.

So, we will get a response to that point, of course, as well as all of the others, as soon as we can. In some cases, I believe there is a good explanation; in some, maybe not. And, again, there is no question that in any organization, including INS, there are needed improvements.

But, again, I want to emphasize the perspective issue, which was completely lacking in the press report—or, more, the audit that it was developed from.

Senator SIMPSON. Mr. Chairman, I do think you are handling it very adroitly there. I think we have learned in recent months and years that you can really no longer take anything at face value. There is always another side. It doesn't matter whether we are talking about Democrats or Republicans.

Yesterday, to see this "top-level" story on John Tower and then find out that the man that put it in there—even the chairman of the committee had disregarded that person's testimony as uncorroborated. That is pretty heavy stuff. It could happen to all of us, and it is tedious to watch. I am getting wise. I am going to start asking

the committee had disregarded that person's testimony as uncorroborated. That is pretty heavy stuff. It could happen to all of us, and

So, here is a chance. You will have to tell us your side of the story, but I have seen you take your lumps before and come before the committee when Senator Kennedy was chairman or when I was and say, we were wrong. If you are wrong, I assume you will tell us here, and we will wait to see where you are right and where you are wrong. We will look forward to that.

Mr. NELSON. We will do that, Senator. As I say, even if you assume that we are wrong on all the audit findings, the one thing I want to reemphasize is, again, the pie here. Even by the auditors' own acknowledgment, they did not deal with the big picture as to the program effectiveness, and I think they should have done that.

The Attorney General's charge to them really required that, in my opinion, and that was the unfortunate thing. We will deal with the problems. If we are wrong—we have made mistakes before; we have done a lot to correct it. I think that is one of the things I am proudest of in my tenure, that we haven't lived by the old rigid ways that might have been in existence.

We have made changes, and I think legalization, implementation of sanctions, the SAVE Program, and all of these are examples of how we have been effective and efficient and flexible, as needed, to accommodate the needs of the people we serve, which is the public of the United States.

Senator KENNEDY. I would just be interested in that backlog, as they mention here, of the 325,000 at the start of the year that has grown to 408,000 by the end of 1988. Total applications only increased by 5,000. We have had a chance to go over that in the past, but I will look forward to hearing your comments on that.

Mr. NELSON. Generally, on the backlog, Senator, you know, I think if you look at the accomplishments in IRCA, particularly legalization, it is immense in the numbers. We have kept the backlogs, we think, at a very good level. And, in fact, I think we disagree with some of those figures in the audit.

We have had an increase, also, in applications. So, we think we have kept—one of the goals, as you remember, in implementing IRCA was that we not negatively impact other programs, and we think we have accomplished that. In some areas, you get some increase in backlogs; in others, there have been reductions. So, again, we will give a detailed response on that.

[The response of INS to questions asked by Senator Kennedy about an audit of INS, conducted by the Department of Justice, and Senator Simon's concerns with respect to the safekeeping of sensitive INS documents follow:]

Washington Post
March 3, 1989

U.S. Audit Finds INS In Disarray

Worsening Backlog. Sloppy Accounting Among Problems

By Henry Allen
Washington Post Staff Writer

A special audit of the Immigration and Naturalization Service ordered by Attorney General Dick Thornburgh found that the agency has a growing problem processing cases, frequently fails to conduct background investigations of aliens applying to be citizens and at one regional office lost more than 23,000 certificates of citizenship and naturalization with a street value of up to $115 million.

The audit describes an agency overwhelmed by sloppy accounting, poor management procedures and the demands of recent legislation. It notes that in the past eight years, INS has grown by 6,000 employees and its budget has increased by $650 million.

The audit, prepared by the Justice Department's management division and given to Thornburgh two weeks ago, covered INS programs as well as its accounting, management and administrative practices. Among the findings:

- Justice Department investigators learned more than a year ago that one INS office was unable to locate 23,059 certificates of citizenship and naturalization with an "estimated street value ranging from $11 million to $115 million." A year later, investigators said, INS had not accounted for the certificates, and had done nothing to keep from losing more of them.

More than two years ago, investigators noted that at least 61,500 naturalized citizens had not relinquished their Permanent Resident Alien Cards when they naturalized, but in January the agency said it still had no timetable to correct the problem.

- Many immigration fraud investigations are in a state of collapse. The Dallas District Office, for instance, reported 118 investigations in progress in December. But the Justice Department discovered that only one case was an active inves-

See INS, A22, Col. 3

INS, From A1

tigation, and that 104 had never been active.

- Aliens are frequently granted citizenship without required fingerprint and background checks. As long ago as 1986, an audit showed that "in the 349 cases reviewed, 163 disclosed no evidence of the required background investigations being conducted." The current review examined 51 cases and found that the checks had been ignored in "virtually" all.
- Backlogs of case adjudications have increased for no apparent reason. A backlog of 325,000 at the start of fiscal year 1987 had grown to over 408,000 by the end of fiscal year 1988, but during that period, "the total applications received had only increased by 5,000, from 1.964 million to 1.969 million."
- Agency officials have granted waivers to prospective employees who had pending trials for felonies, serious drug use allegations, multiple identities, multiple firearms violations and employment histories in which they had been fired for incompetence and barred from federal employment.
- "INS' fragmented approach to security has resulted in an ineffective program which does not safeguard information, personnel or assets," investigators said.
- INS offices appear to make decisions with no consistent criteria. One office legalized 64 percent of applicants to the Seasonal Agricultural Workers Program, while another office 10 miles away legalized only 21 percent. Meanwhile, the service's Southern Regional Processing Facility had a backlog of suspected frauds in the SAW program that ran as high as 70,000 cases.

David Runkel, a Justice Department spokesman said yesterday that the report "does raise some serious concerns and it is being looked at at the highest levels." He said Thornburgh ordered the report because "there had been some concerns raised and he wanted a review of management programs and what they were doing over there."

A spokesman for INS called the report "an internal management tool," and said "what's going on here is in the nature of a conversation between INS and the Justice Department." The spokesman, Greg Leo, said he would not comment on specific allegations in the report.

Congressional critics and advocates of immigration reform have long been critical of the INS's inefficiency and tangled bureaucracy. The criticism has intensified in the wake of immigration bills that have expanded the agency's responsibilities.

Investigators who conducted the Justice Department survey said they were hampered by the fact that "data reported for applications received, applicants interviewed and fees collected were inaccurate and unreliable at all organizational levels." Accounts maintained at local and central offices did not agree on crucial items.

As a result, central and local office tallies of fees collected and applications received did not jibe. For instance, the Western Regional Legalization Office, where cash receipts were stored on unattended shelves, claimed that it had collected $15,681,875 less than accounts showed in central office accounting.

The audit singled out the agency's western offices for special criticism.

A purchase order dated Aug. 23, 1988, for example, and made payable to a Western Region senior management official, could not be located, and no dollar amounts were shown on the purchase order log. When asked, the senior management official could not remember the purpose or the amount of the purchase order. Delays of up to 42 days in depositing funds cost the government $23,000 in interest during a two-month period.

In the Southern Region, INS offices in New Orleans were missing 224 purchase orders. Investigators also noted that the INS had used multiple purchase orders to avoid a $25,000 limitation on purchases of vans, equipment and training.

The audit said the agency ran up millions of dollars in unnecessary overtime costs because it "schedules work shifts to maximize" its use. Between fiscal years 1985 and 1988, overtime payments increased by 34 percent, while the number of inspections increased only 26.6 percent.

An average full-time immigration inspector got a 79 percent hike in pay because of overtime in the 1988 fiscal year, the report said, and the total cost of overtime for the year was $33 million. Air and sea inspectors received overtime payments that averaged 120 percent of their salaries.

Inspectors can collect as much as eight hours of pay for as little as one-to-two hours worked. INS has "no incentive" to change the 1931 law setting the rules "since management and staff benefit from its provisions," the audit said. Consequently, the report concluded, "large overtime costs are being incurred in relation to actual hours worked."

Meanwhile, 42 percent of immigration inspectors performing inspection duties have not attended the 14-week formal training course at Glynco, Ga., while about a third of inspectors are temporary employees and will never take the course, investigators said.

"Other reportable matters" described in the audit included $1,500 spent for an "original oil portrait painting" of INS Commissioner Alan C. Nelson, and $42,000 spent on two Chrysler New Yorkers, one of which "was allocated" to the Border Patrol but was used by a senior management official in the Western Region.

Memorandum

Subject	Date
Audit of the Immigration and Naturalization Service	MAR - 2 1989

To
Dick Thornburgh
Attorney General

From
Office of the
Commissioner, INS

THROUGH: Murray Dickman
Assistant to the Attorney General

The audit of the Immigration and Naturalization Service (INS) which you directed on December 30, 1988, has been completed and the final report has been provided to you. Also, the Justice Management Division (JMD) provided you a paper from INS which documents overall program results.

The JMD Audit Staff has briefed me on the report's findings and has provided copies of their report to the Service. I have asked my staff to review the audit findings and develop action plans to address the identified deficiencies. We view the audit results as an opportunity to continually improve the management and operations of the Service.

However, these findings, which are very narrow in perspective, must be evaluated within the broader context of INS' many significant accomplishments during a period of rapid growth and change. When the Immigration Reform and Control Act became law on November 6, 1986, the Service performed under tremendous pressures to prepare for and operate the Legalization, Special Agricultural Worker, Employer Sanctions, SAVE and Criminal Alien programs, while continuing to improve our performance in the other traditional program areas. INS employees dedicated themselves to this overwhelming task. We are extremely proud of our many achievements, which are described in the INS paper previously submitted.

The JMD audit of INS lists a number of perceived problems but absolutely fails to present any perspective. Certainly any audit has a responsibility to indicate the scope of the problems with respect to the overall operations.

The JMD audit, like a prospectus of a stock offering, should note what it encompasses and what it does not. Guy Zimmerman, Director, JMD Audit Staff, indicated during the verbal debriefing on February 14, 1989: "we don't point out good things, we only list exceptions." INS questions whether this is the function of an audit; if so, it should be clearly noted at the beginning of the audit report in bold type that this is merely a list of exceptions and not a reflection of the overall efficiency or effectiveness of the program. This serious failing by the audit division is particularly significant, since the charge of the Attorney General in his memorandum of December 30, 1988 calls for

JMD to provide the following: "... an assessment of the efficiency and effectiveness ..." of the programs and that the audit should be "... full and comprehensive ..."

The attached pie diagram (Attachment A), which I showed to Murray Dickman at the Senate Appropriations hearing on February 23, 1989, reflects in "Confucian clarity" the proper perspective of the audit findings in comparison to overall INS program effectiveness.

Several examples point out the weakness of the approach by the audit division and its failure to properly reflect the "big picture":

1) Legalization. The Immigration Reform and Control Act (IRCA) calls for the legalization of certain illegal aliens. Many thought INS could not handle such a massive program or do it fairly and efficiently. The bottom line facts are without dispute. Within six months after passage of IRCA, INS accomplished the following: 1) opened over one hundred new offices; 2) recruited, trained and hired 2,000 new employees; 3) established all the appropriate regulations and operating guidelines; 4) printed millions of forms; 5) developed a massive publicity campaign; and 6) contracted with church and other organizations. The operation opened on time without a hitch and must be regarded as one of the major accomplishments of a government organization.

   At the end of the program over three million individuals had applied for legalization (1.8 million under the regular program and 1.2 million under the Special Agricultural Worker program). This was six times the combined total of all applications in all countries of the world ever having similar programs.

   Eight-five percent of all applicants came directly to INS and only fifteen percent to the various church and other groups set up to assist them. This was due to the fact that INS was more efficient and was very fair in the processing.

   The law called for this program to be self-funding. INS set up the procedures, established the fee and collected over $287 million, which more than paid for the cost of the program.

   The audit finding makes the ridiculous statement that they found some cases that were approved which probably should not have been approved and vice versa. It is obvious in any program with three million applications that there will be some in each category. The audit makes no indications of the extent of this problem. It fails to indicate JMD's ability to judge what is the proper standard. For the auditors to make this minor point without reflecting the overall success of the program is gross negligence.

2) User Fee. In 1986 INS took the lead, with the approval of DOJ and OMB, to establish a user fee (a $5.00 charge on most air tickets outside the U.S.) to cover the additional costs of inspection. The unique thing about this user fee was that the money collected would go into providing the service and not into the general treasury. This was a major change in

user fee concepts and one in which INS, DOJ and OMB deserve much credit. This concept is now being expanded to other areas of the government.

Since this user fee was established in 1986, over $180 million has been collected. This has enabled INS to add more than 600 new inspectors, purchase new computers and fund other programs which have greatly enhanced the efficiency of inspections.

The audit absolutely fails to mention this. Rather it only focuses on better procedures such as a lock box system for receiving the checks and some faster deposit procedures. Even if this recommendation is entirely accurate, it completely fails to reflect the fact that this program has been an overwhelming success. Again, this reflects grossly deficient audit procedures.

3) Enforcement Activities. Both before IRCA and after IRCA, INS has been taking significant strides to prevent the entry of illegal aliens into the United States. The employer sanctions provisions of IRCA have been implemented very well: 1) seven and one half million handbooks were delivered to American employers; 2) over one and a half million information visits have been conducted with employers; 3) 3,485 citations and warnings issued; 4) more than 1,200 fines assessed; 5) all contested fines have been won by the government; 6) more than $1 million in fines have been collected.

In addition, strong efforts have been successful in getting more criminal aliens removed from U.S. soil. The number of aliens removed for causes based on criminal and narcotic charges has increased from 2,492 in FY 1986 to 6,372 in FY 1988. The Border Patrol has become the major drug interdiction agency in the federal government on land borders, credited with sixty percent of all marijuana and forty percent of all cocaine seized along the Southern Border. In FY 1988, the Patrol made 3,257 drug seizures valued at more than $700 million. At the same time, effective deterrence successfully reduced the number of apprehensions of illegal aliens by forty percent since the passage of IRCA.

Again, the audit report fails to note this significant accomplishment, but rather makes general conclusions about areas of overlap and an alleged lack of coordination in enforcement activities. No specific facts are provided, but this is included as a finding. No mention is made of the overall success of the enforcement activities resulting from IRCA.

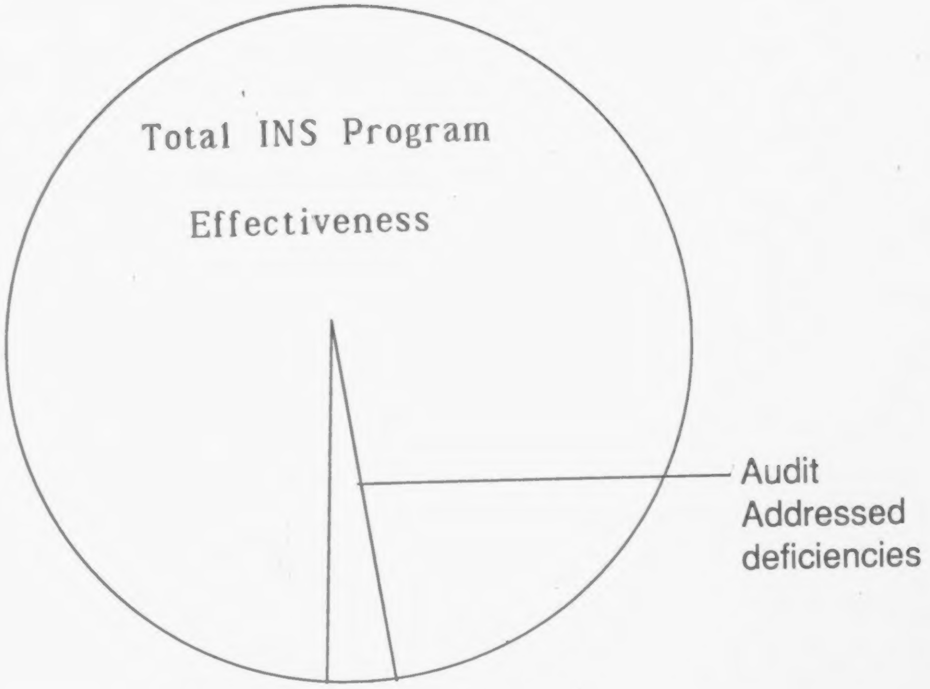
These are three examples of the complete failure of this audit to be realistic and present a proper assessment. There are many more. Within the next week, INS will submit a more detailed point-by-point response to the audit.

I would be pleased to discuss this matter further.

Al Nelson

Alan C. Nelson
Commissioner

INS AUDIT



Attachment 'A'

Memorandum

Subject
Response to Audit of the Immigration and Naturalization Service

Date
MAR - 9 1989

To Dick Thornburgh
Attorney General, DOJ

From Office of the
Commissioner, INS

THRU: Murray Dickman
Assistant to the Attorney General

Attached is the detailed point by point response to the audit of the Immigration and Naturalization Service which I referred to in my memorandum dated March 2, 1989.

As you can see from our response, we fully concur with only five of the report's findings, while strongly disagreeing with 25, or one-half. As previously noted, INS believes that the audit report is far too narrow in perspective and does not properly present a complete and accurate picture of this agency. In that regard please refer to the detailed review of INS program effectiveness submitted to you along with the audit on February 15, 1989 and my memorandum to you dated March 2, 1989.

I recommend that you direct the Justice Management Division to work closely with INS to review all relevant materials, issue a clarifying report, and develop an agreed timetable and action plan for dealing with the various issues.

I would be pleased to discuss this matter further.

Al Nelson

Alan C. Nelson
Commissioner

Attachment

cc: Harry Flickinger
Assistant Attorney General
for Administration

RESPONSE TO SPECIAL AUDIT OF THE IMMIGRATION AND NATURALIZATION SERVICE

EXECUTIVE DIGEST

This is a detailed point-by-point response to the Justice Management Division's (JMD) report on the special audit of the Service, which was conducted at the direction of Attorney General Dick Thornburgh. The Attorney General directed the Assistant Attorney General for Administration to conduct a "...full and comprehensive [audit]" covering "...the full range of financial and programmatic activities...." of the Service. While INS officials view the audit report as a resource tool to assist us in the agency's ongoing efforts to improve management and operations, we are concerned that the audit findings are: 1) very narrow in scope; 2) not presented in the perspective of overall INS management effectiveness and progress; and 3) do not accurately portray the tremendous accomplishments of the agency and its employees before and after the passage of the Immigration Reform and Control Act of 1986.

Of the 50 specific findings in the audit report, INS concurs with only 5. In contrast, we strongly disagree with a full 25 of the findings and partially concur with 20. Our detailed analysis of the findings reveals that almost one-third are minor in light of the overall mission of the Service.

The attached response analyzes each finding and, if the finding was supported, speaks to corrective actions. Consistent with past management practices, INS will be vigorously addressing those deficiencies through specific action plans.

To evaluate the Service in the proper context, the audit report should be considered along with this response, the comprehensive report of Service accomplishments submitted to the Attorney General with the audit report on February 15, 1989, and the Commissioner's memorandum to the Attorney General dated March 2, 1989.

INS proposes to the Attorney General that he direct INS and JMD to work together to review all the above materials, issue a clarifying report, and develop an agreed timetable and action plan for dealing with the various issues.

TABLE OF CONTENTS

SECTION	PAGE
FINANCIAL RESULTS	3
A. FINANCIAL STATUS	3
B. ACCOUNTING AND FUNDS CONTROL	5
C. FINANCIAL MANAGEMENT SYSTEM	10
ADMINISTRATIVE RESULTS	16
A. PERSONNEL	16
B. PROCUREMENT	18
C. AUTOMATED INFORMATION SYSTEMS	21
D. SECURITY	23
PROGRAM RESULTS	28
A. LEGALIZATION	28
B. INSPECTIONS	34
C. INVESTIGATIONS	38
D. ADJUDICATIONS	44
E. BORDER PATROL	50
F. DETENTION	54
OTHER REPORTABLE MATTERS	58
CONCLUSION	60

FINANCIAL RESULTS

A. FINANCIAL STATUS

The conclusion in the audit report that the Service is anti-deficient is totally incorrect and an outrageous misrepresentation of facts. On February 6, 1989, the Service was not, nor are we now, in violation of the Anti-Deficiency Act. The status of FY 1988 obligations and expenditures has been monitored on a daily basis since October 1988. As a direct result of this monitoring, appropriate actions have been taken to ensure that INS is not in violation of the Anti-Deficiency Act.

As evidenced by the GAO Report on Financial Management dated February 1988, financial control in the Federal government is an extremely difficult problem. The financial problem experienced by the Service after the close of FY 1988 was not typical, it is considered a one-time occurrence, and will not repeat itself in the future because of actions planned as well as those already taken.

During FY 1988, several regions experienced an almost total turnover in experienced accounting personnel. The Western Regional Office's turnover was principally due to its relocation from San Pedro, California to Laguna Nigel, California. Institutional knowledge of INS funds control requirements and procedures was lost, and obligations and expenditures were not properly recorded and reported to the Comptroller via the Financial Accounting and Control System (FACS) computer system.

Once the Western Region's large backlog of unprocessed accounting transactions was identified, the Service moved quickly to dispatch a task force of accounting personnel from other locations to resolve the backlog and determine the region's precise FY 1988 financial position. As a result, more than 20,000 transactions have been processed, and the FY 1988 backlog will soon be eliminated.

To prevent any repetition of this situation in the future, the following corrective actions will be taken.

- Comprehensive training for central and regional office personnel on INS funds control requirements, including FACS and FOCUS training.
- Preparation of detailed monthly backlog reports on unprocessed accounting transactions to the Comptroller by the responsible regional and Central Office managers.
- Semi-annual reviews (and reports to the Comptroller) of unliquidated obligations by the responsible central and regional office managers.

- Completion of on-site financial audits of all regions with follow-up audits in the Western and Southern regions prior to the end of FY 1989.

The statement in the audit report that the Service does not prepare entity-wide financial statements is also incorrect. The Comptroller's Office does prepare entity-wide statements on an annual basis that reflect the Service's financial position and the results of operations. Standard Forms 220, Report on Financial Position, and 221, Report on Operations, were prepared after the close of FY 1988 in compliance with guidelines in the Treasury Department's Fiscal Requirements Manual 2-4100 and submitted electronically to Treasury.

B. ACCOUNTING AND FUNDS CONTROL

FINDING: Inadequate Accounting Systems - The INS does not have an integrated automated financial accounting system. The FACS used by INS is a computerized batch processing system working on a cyclical basis that contains the records on allocations, obligations, commitments, disbursements, accrued liabilities, and collections. FACS is now technologically outmoded. (Audit Report, page number 8)

RESPONSE: The Service agrees with this finding. The FACS system and its related subsystems support the financial operations of the central office, regional offices, and some districts and sector offices. The FACS system has been in use for 11 years. It was formally approved by the Comptroller General on October 4, 1982, as being in conformance with the principles, standards, and requirements prescribed by the General Accounting Office.

The Service is well aware of FACS shortcomings and continues to explore possible enhancements to the system to make it more useful. Replacement of an agency nationwide accounting system seems warranted in this case. However, the realities of Federal restrictions will not permit reaching this logical conclusion. The requirements of Office of Management and Budget Circular A-127 and Justice Management Division (JMD) Order 2860.2A prevent the Service from either effecting major improvements to, or replacing, the system.

There is great interest in the Federal government in reducing the number of accounting systems requiring each Department to have one system which all bureaus use. In the interim, the Justice Management Division has assumed responsibility for developing the Departmentwide financial information system required by OMB, known as FMIS. Unfortunately, JMD has no timetable for the implementation of FMIS in INS.

FINDING: Inadequate Accounting Systems - In addition to FACS, the INS regions utilize a number of stand alone personal computer and minicomputer applications in the budget and accounting areas. Many of these applications do not interface with FACS or any automated systems in INS and still require separate entry into FACS, thus resulting in unnecessary workload demands. In the past, each region and the Central Office has worked on developing needed applications, with little or no coordination among offices to prevent duplication of effort. In the past, there were instances when a central office developed system was not adequately coordinated. (p. 8)

RESPONSE: While these are accurate statements, some of the conclusions drawn from these facts are distorted. The availability of personal computers to end users will invariably result in the proliferation of local applications. This situation should not be viewed in a negative light since "end users" can be very creative in developing applications which prove to be useful on a larger scale. Initially, some local applications are conceived to meet unique automation needs, ranging from spread sheets to small financial computational and tracking systems. At that point, however, they are simply standalone, local applications and should not be identified as formal "accounting systems", requiring interfaces to FACS. As these applications are exported to the other regions, they then become standard Service systems and automated interfaces to FACS will be developed. The local systems do not replace FACS, which remains the official financial and accounting system of the Service.

CORRECTIVE ACTION: Local applications will be reviewed by the headquarters Office of Information Systems. Where appropriate and possible, an automated link with FACS will be installed. Future development of local systems will be more closely monitored for wider application as well as to prevent duplication and minimize inefficiency. Systems developed by the Central Office will continue to be fully coordinated with the regional offices to ensure that Servicewide requirements are met.

FINDING: Inaccurate FACS Reports - The FACS reports used as a basis for budget and accounting decisions are not reliable because of problems with transaction codes, lack of current on-line information, coding errors, lack of reconciliations between FACS and other data, and backlogs in entry of data. FACS users have complained that it is not user friendly and that they have not received sufficient training. (p. 8)

RESPONSE: The Service acknowledges that the FACS system is outmoded and labor intensive. While we can, and do, make adjustments to correct deficiencies, we are unable to make major revisions to, or replace, the system due to OMB and JMD restrictions.

The audit report's finding that there is a lack of current on-line information is wrong. The FACS system is updated on a daily basis, and two on-line data base management systems (System 2000 and FOCUS) can be used to access current financial data.

High turnover of accounting personnel and the resultant lack of employees trained in the use of the FACS system were responsible for the "...coding errors, lack of reconciliations between FACS and other data, and backlogs in the entry of data."

CORRECTIVE ACTION: The Service is preparing a new FACS training package and will complete the re-training of all regional personnel before the close of FY 1989. We are taking a proactive, aggressive posture to staff up the accounting and financial areas with highly qualified individuals, and to train all responsible personnel in Service funds control policies and procedures, especially the requirements and use of the FACS system.

The Comptroller's Office in concert with the regions will review the data input procedures for FACS and complete reprogramming to expedite the processing of transactions on a timely basis. We will also make adjustments to FACS programming to provide more stringent edits and improved reporting capabilities. Where the cost of these improvements exceeds the limits imposed by JMD and OMB, the Service will seek an exemption on an interim basis until the Department's system is developed.

FINDING: Ineffective Fund Control - The Central Office Budget Staff has responsibility for control over funds at the INS Central Office. The Assistant Regional Commissioners for Budget and Accounting are responsible for their respective regions. We found that the information available to the program managers at various levels was neither consistent nor reliable. (p. 8)

RESPONSE: The audit report is wrong in stating that the responsibility for funds control in the Central Office rests with the Chief, Budget Staff; actually, it rests with the Chief, Headquarters Accounting Section.

The FACS system features remote regional outputs, on-line inquiry capability, and detailed reporting on a daily, monthly, quarterly, and annual basis through the generation of scheduled reports. FACS produces a series of Status of Funds reports which are designed especially for use by program managers. The Comptroller's Office routinely provides training courses on the reports available from, and uses of, the FACS system. The reliability of the reports is, again, a function of timely, complete, and accurate data on accounting transactions input into the system.

The financial operations of the Service are dynamic because of fast changing enforcement needs. The need to reprogram funds within an extremely short time frame in order to respond to unforseen, emergency situations, such as the Mariel Cuban riots and the recent influx of Central Americans along the southern border, means that the 15-day requirement cannot always be met. The Service is extremely conscientious in notifying Congress through timely staff briefings about all changes with budget plans; and every year the Service complies with the formal Department of Justice reprogramming process which is completed by June of each fiscal year.

The audit report is wrong in stating that once funds have been allocated to the regions that the Central Office has no control over them. For the last ten years the Service has used a program manager concept to monitor and provide central control of program budgets in each region, conducting quarterly reviews to determine the exact status of program budgets and operations. The Service further expanded controls in FY 1988 and FY 1989, by publishing monthly reports which highlight the spending activities in each region, and by implementing a major change in the allocation of funding resources which is meant to discourage the lapsing of salary money for the purchase of supplies and equipment. These new procedures will ensure greater control, credibility and predictability to the funding process.

Selection for program staff positions does not require prior knowledge of the budget or financial procedures of the Service. The Comptroller's Office routinely offers training courses on the reports available from and the uses of the FACS system. Also, the recently revised FACS User Handbook and the Program Manager's Handbook readily provide information concerning the types of FACS reports available to help detect and prevent commitments/obligations/expenditures in excess of available funds.

CORRECTIVE ACTION: We are launching an aggressive training program for accounting personnel in the entry of data into and the overall administration of FACS. This training will substantially reduce the backlogs of data entry and greatly improve our ability to accurately determine the status of the Service's unobligated balances.

FINDING: Lack of Reconciliations - The Western Region was not reconciling its funds control (Form G-104) records to FACS. Without proper reconciliation, regional staff are not sure if either the Form G-104 or FACS information is accurate, all obligation information is entered, entries are coded properly, or unauthorized obligations exist. Four legalization offices in WRO have been spending money through their respective imprest funds and have been getting those imprest funds reimbursed on a regular basis, even though these offices have no money to expend funds. Proper reconciliation of Form G-104 obligation documents to FACS could have prevented both of the above weaknesses. (p. 8)

RESPONSE: It is accurate that, to date, the G-104 process in WRO has been hampered by problems such as inexperienced personnel, high volumes of documents, and inadequate procedures. At the close of FY 1988, WRO did not obtain all G-104 obligations for field offices and transaction registers were not always reviewed. However, the task force which was dispatched to WRO has been training WRO personnel in the use of automated techniques and streamlined procedures which are used at the three other regions and the Central Office. Based upon these procedures, reconciliations between the G-104s in the WRO field offices and the FACS records will be performed on a monthly basis to insure the accuracy of the financial records.

All legalization offices have been instructed to cease issuing funds unless obligation authority has been established. Further, all WRO accounting personnel have been notified to carefully review all requests for imprest fund reimbursements for proper disbursement authority.

CORRECTIVE ACTION: The Service is striving for standardization through the improved automation of the funds control process by the implementation of the Field Office Funding System (FOFS) which is targeted for October 1, 1989. In the interim, the WRO has been instructed to use those methods of processing G-104s which are successfully used in other regions. The FOFS will include a module to reconcile the imprest funds at each location and post the imprest fund expenditure to the field office G-104.

The Comptroller's Office will review the policy of allowing the regions to establish imprest funds without prior Central Office approval and establish a system to properly bring these funds under more rigorous controls.

C. FINANCIAL MANAGEMENT SYSTEM

FINDING: Invalid Unliquidated Obligations - At one region, a sampling of outstanding obligations for FY 1983 through FY 1987, showed that 71 percent of the sampled obligations and 76 percent of the dollar value of the sample were no longer valid. OMB Circular A-127 and 31 U.S.C. require that each agency conduct an annual review of unliquidated obligations and submit a certified report to the President. Even though annual reviews were not performed at the Central Office, and southern and western regions, the Comptroller certified that the reviews were completed and that all reported amounts were correct. (p. 10)

RESPONSE: On August 18, 1988, all regions were provided instructions for conducting the annual review of unliquidated obligations. They were asked to ensure that all documents citing current and prior year appropriations be reviewed and that the proper adjustments be recorded in FACS.

The Comptroller's certification on the closing statement is as follows: "I hereby certify that the amounts shown in this report are correct. All known transactions meeting the criteria of 31 U.S.C. 1501(A) have been obligated and are so reported." Unless information to the contrary has been discovered, the official accounting records of a Federal agency are considered to be correct. The amounts reported were taken from the account balances in FACS as of September 30, 1988, and were certified by the Comptroller as being correct. The instructions for FY 1988 closing of FACS required a review of outstanding obligations by the regions. The review and certification authority is delegated to the regions and does not require a second review by the Comptroller.

CORRECTIVE ACTION: The Service will initiate monthly detailed backlog reports certified by the Chief, Headquarters Accounting Section and the Assistant Regional Commissioners, Budget and Accounting. The Assistant Regional Commissioners, Budget and Accounting will also be required to conduct a semi-annual review of unliquidated obligations. This requirement will be incorporated in the performance workplans of responsible officials.

FINDING: Overcharges to Legalization Program - The Service supplemented appropriated activity with nonappropriated funds. The legalization program is self-funding nonapproriated and the Special Agricultural Worker program (SAW) is appropriated. Since legalization offices were processing SAW applications, costs were combined then later allocated. A review of journal vouchers posted during FY 1988 for WRO disclosed that the allocation rates computed by the Central Office to reimburse that region's legalization program for the SAW activity were incorrect. (p. 10)

RESPONSE: Since SAW and general legalization activities were consolidated and performed by the same personnel in legalization offices, it was necessary to provide a basis to pro-rate such costs. Allocation rates for transferring SAW related costs from the legalization program were developed based on case statistics. All cost transfers were based on these statistics. Absent cost accounting information, pro-rating costs based on statistics is an acceptable method of assigning costs.

FINDING: Lack of Accountability for Surety Bonds - The Service cannot determine the potential liability of surety companies. Surety company liabilities become especially important when these companies default on their obligations to pay, and litigation results. Settlements have been reached with two companies during the past 15 months for a total of $21,800,000. (p. 10)

RESPONSE: The statement that the Service cannot determine the potential liability of surety companies is incorrect. All of the necessary information can be found in the official files of the aliens involved in violations of the terms of the surety bonds. It is correct, however, to state that the Service is unable to quickly retrieve the information needed concerning surety bonds issued by a particular surety company, when the Service wishes to enter into a blanket settlement with an insurance company covering all bonds, breached and unbreached. In such instances, it is difficult to arrive at an accurate dollar amount in a timely manner because information concerning the amount of potential liability on bonds written, but not yet breached, takes considerable time to develop.

CORRECTIVE ACTION: The appropriate long-term solution for improving the management of surety bonds is the development and implementation of an automated system that can track and report on surety bonds from the time of issuance until the conditions of the bond are met. The Information Systems Office of the Service has already reported the need for such an automated mechanism; and contingent upon funding, the system development process will begin during the fourth quarter of this fiscal year.

On a short-term basis, the Service will re-emphasize the need to comply with bonding procedures, to issue timely billings, and to improve the collection of breaches.

FINDING: Noncompliance with the Prompt Payment Act - The Service is not complying with the Prompt Payment Act which generally requires payment within 30 days. A sampling of 62 vouchers from the Central Office and the WRO revealed that 42 vouchers were paid late, and that four vouchers should have included an applicable interest penalty with the payment. Also, because of backlogs in processing payments to vendors, no payments discounts were being taken. (p. 10)

RESPONSE: Based upon a review of the 1988 Prompt Payment Reports submitted by the respective regions and a limited review of paid vouchers at Central Office (conducted while preparing the consolidated annual report), we must agree that the facts presented are correct with one exception. While some discounts are not taken, the statement that no discounts are taken is simply not true.

CORRECTIVE ACTION: An Acquisition Control and Tracking System (ACTS) is now under development and is projected to be operational by the end of FY 1989. This system will provide an automated mechanism for integrating the functions of requisitioning, contracting and procurement, funding and property management. It will include a link to FACS and will alleviate delays in the submission of receiving data to the accounting offices. Also, although not currently funded, the Service is exploring the development and implementation of an automated accounts payable/disbursing system to provide for automated scheduling, computation and payment of invoices. The proposed time table would be 12 months after approval of funding. Finally, in the short-term, the Service will re-emphasize the importance of full compliance with the Prompt Payment Act of 1988 and its recent amendments, through detailed guidance issuances.

FINDING: Lack of Controls Over Cash Receipts - INS lacks adequate internal controls over its cash receipts. (p. 10)

RESPONSE: The statements that the entire Service lacks adequate internal controls over its cash receipts and that it lacks checks and balances to ensure that the amounts deposited equal the actual amounts collected are not true.

The Service's Administrative Manual prescribes very specific procedures for the collection, documentation, disposition, and internal control over cash receipts in field offices as well as regional accounting offices. Documentation of collections in and deposits by field offices is furnished daily to the regional offices where it is compared with confirmed deposit tickets received from the depository.

The Service recognizes the critical need to maintain stringent controls over cash receipts. We are always sensitive to deviations from the security requirements for handling cash. Once the breakdown was discovered, the Service quickly investigated the situation and subsequently determined that the cash handling deficiencies at the two WRO offices did exist.

CORRECTIVE ACTION: A directive is being issued to the principal officer at each location where cash handling deficiencies were found, requiring immediate corrective action. The Service will reexamine its controls over cash receipts and reissue policy guidance and new control procedures.

FINDING: Need for Immigration User Fees Lockbox - The Service has not yet implemented the recommendations in the 1988 audit of the collection of immigration user fees. That audit disclosed major weaknesses in the areas of receipt and deposit of user fees. The report stated that the implementation of a lockbox system for user fee collections would provide the receipt controls required and would save the U.S. government between $25,000 to $50,000 annually by reducing user fee deposit time by one to three days. Since the audit, controls over receipt and deposit of user fees have deteriorated. User fees received between November 1, 1988 and December 31, 1988, were deposited between one to 42 days after receipt. This delay in deposit cost the U.S. government $23,000 in interest expense in a two-month period. (p. 11)

RESPONSE: This is the finding of an audit done over two years ago. The Service then and now does not agree with the auditors' conclusions on this issue. Inspections User Fee payments are due quarterly, generating one check from each of approximately 120 remitters every three months. Although lockboxes are very efficient and cost effective whenever consistently large volumes of remittances are involved, they are less efficient and even costly whenever a small, intermittent volume of transactions is involved as is the case with Inspections User Fee collections. More importantly, by having remitters mail their user fee collections along with the required quarterly statements directly to the Service, instant decisions regarding remittance accuracy and instant responses to inquiries can be made accurately.

In two recent cases, instant access to remittances and supporting data resulted in significant monetary recovery for the Service and the Government. Specifically, when the Service received a quarterly check from British Airways, it was quickly determined that the remittance was low. Immediate action resulted in additional collections of $610,005 for both the Service and the U.S. Customs Service, constituting a total recovery of $1,220,010 for the Government.

In another case, examination of the supporting documentation of the Flying Tigers Airlines remittance revealed that the figures and the remittance amounts for the Service and for the U.S. Customs Service were actually reversed. By having both the check and supporting documentation readily available, the Service quickly determined that $83,765 should have been remitted to the Service and $49,900 should have been remitted to Customs. Appropriate adjustments were quickly made.

The auditors correctly identified an isolated instance of deposit delay. However, to draw a conclusion that overall controls over receipts and deposits have deteriorated based upon a very isolated instance is totally incorrect and without sound basis. For example, during the period of February 1, 1989 through February 17, 1989, more than $23,000,000 in Inspections User Fees were received and deposited within twenty four hours of receipt.

All user fee deposits are reported to Treasury via the monthly SF-224 process (completely independent of the deposit process), providing a strong system of checks and balances. A third party reviews and resolves any differences. Finally, an on-staff Certified Public Accountant independently reviews the entire Inspections User Fee process to ensure that the Service collects all fees due and that the fees are deposited within 24 hours of receipt.

This finding is an example of the narrow perspective of the entire audit report. The Inspections User Fee Program, which was enacted in 1986, represented a major change in user fee concepts in the Federal government. Inspections User Fees go into providing service, not into the general Treasury. The fees and fines collected, more than $180 million since its implementation, have enabled INS to add more than 600 new inspectors, purchase new computers, and fund other programs which have greatly enhanced the efficiency of the Inspections Program. This innovative program has proven to be a great success and the concept is now being expanded to other areas of government. The audit report ignores the significance of this major shift in the approach to funding specific government programs and, instead, prefers to "quibble" over a minor point of accounting techniques.

ADMINISTRATIVE RESULTS

A. PERSONNEL

FINDING: Lack of Training for Procurement Personnel - The Department's Procurement Executive issued reports in 1986 and 1988, recommending that INS develop a formal procurement career development program as required by 41 USC Section 414. At the time of our review, INS had not acted on the recommendations. (p. 12)

RESPONSE: The requirement for formal agency procurement career development programs stems from Executive Order 12353, dated March 17, 1982, and 41 U.S.C. 414. These require Executive Agency heads, not bureau heads, to develop and maintain a procurement career management system. While the Justice Management Division issued a directive in 1986 passing this requirement on to bureau heads, JMD has failed to formally establish the required Departmentwide Procurement Career Management Program nor has it issued specific guidelines to bureaus governing the development of bureau level programs. A draft JMD directive was only recently circulated to bureau procurement heads for comment in January 1989, seven years after the Executive Order was issued. INS will move quickly to establish its formal program now that JMD has finally acted.

In the absence of a formal Department program, INS proceeded to individually evaluate each Service contracting officer's background to determine needed skills as outlined in the Federal Acquisition Regulations. On November 16, 1988, JMD's Procurement Executive reported that Departmentwide, only 57.9 percent of contracting officers met standard training requirements and only 78.6 percent met standard experience requirements. At that time, 87 percent of INS contracting officers met the training requirements and 100 percent met the experience requirements. As of this date, 100 percent of INS contracting officers meet the training and experience requirements.

FINDING: Significant Loss of Administrative Personnel - As a result of the Western Regional Office relocation in 1988, there was a significant loss of administrative personnel. This included nearly all procurement staff, about 60 percent of the personnel staff, and about 56 percent of the budget and accounting staff. This has resulted in significant operating deficiencies such as the accounting backlog. (p. 12)

RESPONSE: This finding is accurate but the facts are incomplete. The loss of experienced administrative staff in the

Western Region actually dates back to 1985 when plans for the move were first formulated. This relocation was unusual because the two sites are not within commuting distance of one another. Over the next several years, a large number of employees who did not want to move their residences accepted other jobs. The Region had difficulty filling behind the departing employees because applicants from the San Pedro area would be faced with the prospect of moving, while it was too far for applicants who were interested in working in Laguna Nigel to commute to San Pedro pending the relocation.

Operating workload backlogs during FY 1988 may be directly attributed to this unfortunate situation. However, it should be noted that the Western Regional Office's accomplishments in the implementation of IRCA have been truly impressive in spite of the acute staffing problem.

CORRECTIVE ACTION: The Western Regional Office has aggressively staffed up in the administrative area with highly skilled professionals. Now that the relocation to Laguna Nigel is complete, employment levels will stabilize and workloads in all administrative areas will be timely addressed.

B. PROCUREMENT

FINDING: Lack of Advance Procurement Plans - At the time of our review, INS had not prepared Advance Procurement Plans for FY 1989 or 1990, as required by DOJ Order 2300.5A. (p. 12)

RESPONSE: This audit report finding is not complete nor accurate. It is true that the Service was slow to implement the Advance Procurement Plan (APP) process; however, we have been working closely with the Department's Competition Advocate and have met with her several times for assistance in this regard. Although the FY 1989 APP had not been issued when the audit was conducted, the 300-page document was substantially complete at that time and has now been finalized. The Service's desire to expand the APP into a more effective fund control mechanism caused a delay in its issuance. This has now been accomplished and, as a result, the APP is a more valuable management tool to the Service. We are now addressing the FY 1990 APP in the same manner, and will have it finalized by June 1989.

CORRECTIVE ACTION: Beginning with the APP for FY 1991, the Service will adhere to Department due date requirements.

FINDING: Failure to Implement Corrective Action - Several of the administrative problems identified by the Department's Procurement Executive's March 1988 report have not been corrected.

- INS input into the Federal Procurement Data System did not present an accurate picture of all INS active contracts.
- Contract files were not closed out in accordance with the time standards specified in the FAR. The Central Office Procurement Branch had given contract closeouts a low priority and had not developed or implemented specific contract closeout procedures. (p. 12)

RESPONSE: The Service, in fact, responded to the Procurement Executive's report by assigning the responsibility for input of Servicewide data to the central office procurement policy staff. As a result, our FY 1989 first quarter submission was timely, and was accepted by JMD's Office of Procurement Executive as complete. We are confident that our actions in this area have successfully addressed the problem.

The audit report finding that the Service has no contract closeout procedures is wrong. In fact, the procedures outlined in the Federal Acquisition Regulations (FAR 4.804-5) are sufficient, and do not require local implementation. While it is correct that the time standards for contract closing were not adhered to, the tremendous increase in workload during FY 1988 (the number of contracts doubled and their dollar value tripled) and two long-term contracting officer vacancies contributed greatly to this situation. Of necessity, top priority was given to the award and administration of contracts.

FINDING: Purchase Order Deficiencies - Purchase Order 880669, dated August 23, 1988, made payable to a Western Region senior management official, could not be located. Also, no dollar amounts were shown on the purchase order log. (p. 13)

RESPONSE: Purchase Order Number 880669 was never utilized. No payment of any type was made against this purchase order number. In any event, a purchase order would never be issued to a government official.

FINDING: Purchase Order Deficiencies - Several purchase orders were missing from the Southern Region's headquarters files. In addition, the New Orleans District Office was missing 75 purchase orders and the New Orleans Border Patrol Sector was missing 149. (p. 13)

RESPONSE: The missing purchase order files have been located or duplicate files prepared. We have determined that the missing purchase orders from both New Orleans offices were in fact voided purchase orders.

FINDING: Purchase Order Deficiencies - Voided purchase orders were not filed. Purchase order numbers assigned but never utilized, were not voided in the accounting system and their elimination was not documented in purchase order files. (p. 13)

RESPONSE: Without specific examples, we are unable to respond to this finding. However, due to administrative turnover in procurement and accounting positions, we are aware that some record keeping procedures may not have been closely followed.

CORRECTIVE ACTION: Improved adherence to procurement and financial processing and records keeping requirements will address these minor problems.

FINDING: Split Purchases - We noted several instances where goods and services were obtained using multiple purchase orders to avoid the $25,000 limitation. For example, INS obtained vans, equipment, and training in this manner. (p. 13)

RESPONSE: Without the specific purchase order numbers, we are unable to conduct a review to determine the accuracy of the audit report's finding in this area. However, we do note that there are instances when the open market small purchase limitation of $25,000 does not apply, such as delivery orders against requirements contracts and orders against the General Services Administration Federal Supply Schedule.

The Central Office procurement staff did issue three small purchase actions for vehicles to be delivered to different geographical locations within the United States. These vehicles required installation of two-way radios on site and it was determined that this would alleviate the advantage of bulk purchase. Procurement regulations clearly indicate that quotations should be obtained without soliciting sources outside the local area, and, in this case, there were multiple locations. In addition, the individual purchase orders were not issued to circumvent the small purchase limitation, but to meet the legitimate needs of the Service. This was not a violation of the $25,000 limitation.

The Southern Regional Office issued two separate purchase orders for mid-level management training during FY 1988, which were for dissimilar services and were not an attempt to avoid the small purchase limitation.

CORRECTIVE ACTION: Service procurement officials will continue to closely monitor small purchases to ensure that they meet regulatory requirements.

C. AUTOMATED INFORMATION SYSTEMS

FINDING: Lack of Planning - INS has not adequately defined its automated information systems (AIS) needs even though it has been working since 1977 to automate its mission and administrative systems. Lack of planning and a definitive needs assessment hampered INS' early efforts. Major problems were disclosed based on our review of INS' 1988 tactical plan. (p. 13)

RESPONSE: Not only is this finding simply nonsense, but it has been plagiarized from INS' own planning documents, and presented, out of context, as the Audit Staff's own analysis.

While it is true that for several years after the development of the INS Long-Range ADP Plan in 1981, INS did not do adequate planning, this has not been the case since the beginning of 1987. During that year, INS prepared a Strategic Plan for AIS as well as a Tactical Plan, both of which were published early in 1988. The Department's Systems Policy Staff reviewed and accepted both plans. The 1989 update to the Tactical Plan has been prepared and is being reviewed now within INS. Development and procurement activity is guided by the Tactical Plan, and is carried out as resources permit.

The list which the report characterizes as "major problems" that were disclosed by their "review" is clear evidence of the auditors' blatant disregard for basic standards of professional integrity. The items listed were not disclosed by their review; the words were taken virtually verbatim from the 1988 Tactical Plan itself, and represent INS' own analysis and planning effort. Not only does the audit report plagiarize inexcusably, but it also deliberately omits the context to make it appear that the audit team itself has identified hidden problems. The truth is that the statements were part of the discussion in the Tactical Plan to explain why the systems listed were being upgraded or replaced.

Effective planning is indeed in place in INS and has been for several years. The INS planning document properly identifies deficiencies and lays out our plans to correct them.

FINDING: Inadequate Cost Analysis - INS has failed to provide a comprehensive cost analysis for operating the San Diego Data Center. INS responded with an incomplete cost analysis. To date, INS has not responded to our recommendation in a satisfactory manner. (p. 14)

RESPONSE: It is true that the Audit Staff has not accepted our analysis of the costs and benefits of maintaining the San Diego Data Center. Our analysis tends to show that keeping San Diego open is cheaper than doing the same processing at the Department's Data Center in Dallas; this is not compatible with their preconceived notions.

We have been trying for several months to meet with the Audit Staff to determine what would meet their needs. They have been too busy with this audit report to meet with us, until just recently. They informed us verbally that they did not really care what the report says, that the real client is the Department's Systems Policy Staff (SPS), with whom we have good working relations. We are working with the SPS to produce a report which satisfies both us and them.

D. SECURITY

We do not agree with the Audit Staff's conclusion that INS' fragmented approach to security has resulted in an ineffective program.

FINDING: Lack of Background Investigations - INS currently has a massive backlog of incomplete background investigations. For example, the Western Region has not requested background investigations for approximately 1,650 employees, most of whom are in sensitive positions. In addition, there is a nationwide backlog of approximately 10,000 periodic reinvestigations which would cost an estimated 1.5 million. (p. 15)

RESPONSE: This finding erroneously infers that the Service as a whole has a backlog of background investigations. In fact, the backlog exists only in the Western Region, and is a direct result of the significant loss of administrative personnel discussed in an earlier section.

The finding on the backlog of periodic reinvestigations is correct, but does not give a complete picture of the situation. Many other Federal agencies and even other components of the Department have similar backlogs, due primarily to a lack of funds to pay for the reinvestigations and a lack of resources to adjudicate them. The Service has elected to devote its financial resources to handling current personnel suitability matters for the applicants and new employees hired as a result of our massive hiring efforts under the 1985/86 Southern Border enhancement initiatives and the implementation of IRCA. In Border Patrol hiring alone, the Service obligated more than $3.4 million for background investigations in FY 1988. As the audit report indicates, the Service would need approximately $1.5 million to eliminate its periodic investigation backlog. The Justice Management Division Security Staff is well aware of the DOJ-wide deficiency in this area. This deficiency cannot be corrected without sufficient funds. It is our understanding that the Department has requested funds to cover the cost of these reinvestigations in its FY 1990 budget request.

CORRECTIVE ACTION: The Western Region has established a new personnel suitability unit to ensure that Department personnel security requirements for initial background investigations are followed. Additional resources have been temporarily allocated in order to clean up the background investigation backlog by April 15, 1989.

FINDING: Improper Use of the Waiver Process - Our review of INS Western Region's use of the waiver process showed several problems with its application.... (p. 15)

RESPONSE: Although the lack of a case listing prevents us from verifying the specifics of this finding, the Service admits that proper waiver procedures were not followed in the Western Region, once again due to the high turnover of administrative personnel.

CORRECTIVE ACTION: The establishment of the new personnel suitability unit and recent training conducted by central office personnel security officials will ensure that proper waiver procedures are followed in the future. In addition, Western Region personnel suitability officials will review past cases for violations and will develop corrective actions in individual cases, as appropriate.

FINDING: Lack of Contractor Clearances - Our review of contractors providing computer input services for the legalization program disclosed that they were given access to INS sensitive information before being cleared. (p. 15)

RESPONSE: This finding apparently refers to the ACS contract, where contract employees were allowed access to sensitive information prior to receiving clearances.

CORRECTIVE ACTION: The Service has already taken action to correct this significant deficiency. ADP contractor clearances are now controlled by the central office Contract Security Unit, which strictly adheres to Department requirements.

FINDING: Lack of a Security Education Program - INS does not have a security education program. New employees are to receive security briefings, but no records are maintained in the Southern and Western Regions to show who attended, when the course was given, and the security topics taught. In addition, security officers do not receive training in personnel and physical security, yet they are expected to provide guidance and expertise in these areas. (p. 15)

ANALYSIS: This finding is simply not true. Security Officers Conferences were held in 1985, 1987, and 1988. All aspects of security were covered in these meetings. In addition, numerous personnel security, physical security, and ADP security conferences and training sessions have been held over the past few years. Members of the Department's Security Staff have participated in many of these meetings. A two-volume Security Officers' Handbook was produced by the Service in 1987 and provided to responsible officials throughout the Service. New employee orientation programs in central office and the regions include information on physical and ADP security. We fail to understand how the lack of training records "proves" the audit finding.

FINDING: Ineffective Physical Security - Our review disclosed the following problems:

- The inventory procedures for control of Certificates of Citizenship are extremely weak.
- The Data Entry Section at one service center was not secure during or after normal working hours.
- At a port of entry, there were insufficient safes to store admission stamps, special formula ink, and lookout books.
- Padlock and safe combinations were not changed at least annually as required. (p. 15)

RESPONSE: Pertinent physical security and security forms management requirements are clearly outlined in the Service's Administrative Manual and the Security Officers' Handbook issued in 1987.

The finding that inventory control of Certificates of Citizenship is a nationwide problem is incorrect. The problem identified in the Miami District Office is discussed in an earlier section of this response. Procedures for the inventory and control of security forms are clearly outlined in the Service's Administrative Manual.

Without specific information, we are unable to respond to the finding about safes at ports of entry and the failure to change combinations.

CORRECTIVE ACTION: The importance of the Service's security form control procedures will be reaffirmed to all Service locations.

The Southern Region has already acted to improve the physical security of the region's service center. All ports of entry nationwide will be surveyed and proper storage containers made available, as necessary. Proper storage of stamps, inks and lookout books and combination security requirements will be adhered to by all offices.

FINDING: Lack of AIS Security - AIS security has significant weaknesses. Terminals are located in open areas, access to systems was beyond the scope of employees' duties, there was no password integrity, and no contingency plans or risk analyses were developed. (p. 16)

RESPONSE: These findings are several years old, and do not reflect current facts. INS has made significant changes over the past two years or so, especially in the password and system access area.

Terminals in open areas do not represent a security issue. Terminals are in open areas because they are an integral part of a work area and must be accessible to a variety of employees. Security is provided through the use of user-IDs and passwords.

INS has very clear policies regarding access to INS data systems. The Password Issuance and Control System (PICS) became fully operational in November of 1988, and controls access to each system individually on a need to know basis. Supervisors are required to certify that an employee has a need for access before a password can be issued. In addition, PICS requires that the password applicant have a security clearance level appropriate to the access requested.

One of the reasons that PICS was developed was to speed up issuance and improve control of passwords. In the past, delays in getting passwords led some employees to "borrow" passwords of others so that they could get their work done. With PICS, that is no longer true nor necessary. PICS issues passwords almost instantly (to qualified employees) and forces users to change their passwords frequently.

Passwords are automatically cancelled by PICS whenever an employee leaves and changes jobs. Local ADP Security Officers can also instantly cancel any password and user access if it is necessary.

Last year, a professional ADP Security Staff was formed. They are undertaking all the requirements of the ADP Security Act of 1987, including risk analyses of the San Diego and Washington Data Centers. Information gathered as part of this effort will be used to formulate contingency plans which are scheduled to be complete in 1989.

Administrative Manual Sections on ADP Security have been written to consolidate the material that now appears in various manuals and directives now. It will be published within the next two months. Security awareness is being enhanced through video tapes and PC-based self instruction, and is being incorporated in classes and conferences.

PROGRAM RESULTS

A. LEGALIZATION

The Service must take issue with the manner in which the problems cited in the report were stated. The material presented, in general, lacked specificity. Broad generalizations are presented in conclusive fashion weakly supported by questionable data that failed to identify the extent of the problem cited.

Almost totally ignored is the fact that the Service operated a very successful Legalization Program pursuant to the will of Congress. While the report does cite the short time allowed the Service to implement the Legalization Program, it failed to acknowledge the extent of the requirements that had to be overcome to not only implement but also operate the program. The magnitude of the effort to realize implementation and operation of the program is difficult to overstate. The processing of over 3 million applicants pursuant to a newly legislated criteria in an open, flexible environment has brought the Service considerable compliments from numerous and varied sources.

Throughout the lengthy debate regarding immigration reform, it was clearly understood by the Congress that, in order to regain control of the borders of the United States, there would be no overall success of any piece of remedial legislation unless a Legalization Program was made available to aliens who had resided illegally in the United States for a period of time and had established themselves as part of an American subculture.

To this end, Congress mandated that the Legalization Program should be implemented in a "liberal and generous fashion" and be made available to all eligible applicants, affording each a one-time opportunity to become a full and active member of the American society.

In the establishment of the Legalization Program, the Service met this Congressional mandate by creating a program that was statutorily correct, fair to the applicants, flexible, and enforceable. Clearly, these goals have been achieved beyond all expectations.

The Service is proud of its showing in the Legalization Program and is disappointed that the Department's Audit Staff has failed to recognize the significance of this accomplishment.

FINDING: Ineffective and Inconsistent Adjudications - The special audit report stated, "Some legalization adjudications were inconsistent, insufficiently documented, inadequately reviewed, and failed to comply with statutory requirements. As a result, legalization benefits may have been granted to ineligible applicants and denied to others who were eligible." (p. 17)

RESPONSE: In a program that has received more than three million applications in a one and a half-year period, it can be expected that there may be some cases granted and/or denied that should have been adjudicated in a difference fashion.

However, the adjudicative approach utilized in the Legalization Program was one of fairness. Decisions were made on a case-by-case basis by adjudicators adequately trained to adjudicate applications for legalization. Work completed by adjudicators was reviewed 100 percent of the time both by the Legalization Offices and the Regional Processing Facilities (RPFs) in the early stages of the program. When the ability to make proper recommendations at the Legalization Offices reached an acceptable level, the necessity of the 100 percent review diminished. Reducing the percentage of cases reviewed is not a sacrifice of quality control. A spot check of cases suffices when dealing with experienced adjudicators. In any production oriented operation that is a preferred and acceptable practice. In addition, the very fact that the review process was limited could be the reason why the audit team did not see any evidence of such reviews.

The legalization adjudicators were trained to exercise independent judgment based on the totality of circumstances in each individual case. Because eligibility could rarely be established solely on documentary evidence, weight was given to the applicant's credibility during the interview. Within the framework of the statute, regulations and independent knowledge and judgment, the legalization officers make decisions which are then further reviewed by the RPF in their role of ensuring consistency within the program and with their additional knowledge of completed agency checks, related "A" files, and intelligence information.

The documentary needs for each case are again on a case-by-case basis. There may be circumstances where eligibility can be satisfied with minimal documentation. Conversely, there may be cases supported by mounds of paper that fail to establish eligibility.

In the early planning stages for legalization, the Service was advised by concerned members of the public that some applicants would find it virtually impossible to produce documentation. In addition, individuals attempting to remain hidden because of their unlawful status would dispose of, rather than retain, documentation. Therefore, in writing the regulations the Service attempted to allow as much flexibility as possible in the documentation required. This can be seen by the numerous types of documents that may be presented to establish continuous residence, identity, etc. For example, minimal documents would be necessary from a reputable corporation where the nature of the documents would establish continuous residence, identity, and self-support.

Throughout the Legalization Program there has and continues to be review of the adjudicative decisions at all levels.

Determining the extent and frequency of the limited reviews lies within the authority of the Director of the Regional Processing Facility. In the Western Region's case, limited reviews of recommended grant cases are conducted. These reviews are only documented in files which have resulted in a reversal of the original recommendation. It is not clear from reading the report whether the audit team asked the supervisors for any records that they may have kept as a result of their limited reviews which may have eased the concern of the team in this area.

The audit team makes the assertion that seven of 35 approved cases which they reviewed were statutorily ineligible based on file contents. We wonder what expertise has led them to this conclusion. The sometimes vague language in the statute was interpreted by the Service in its regulations. Court review in several instances led to differing interpretations and consequent modification of applied eligibility standards. The Director of the Western Regional Processing Facility also reviewed the seven cases in question and found that all but one were clearly approvable.

The audit report fails to differentiate between the Legalization and SAW Programs in alleging INS operated as if the burden of proof was on it to disprove eligibility.

In the Legalization Program, the burden of proof to establish eligibility always remains with the applicant as indicated in the audit report. The adjudication of applications is consistent with the regulatory authority to weigh the evidence submitted.

In the SAW Program, the statute directs that the burden of proof shift to the government to negate the reasonableness of the inference to be drawn from the evidence presented with the application. If the fact of employment is established and personal testimony supports the extent of employment by a just and reasonable inference, there is no statutory or regulatory requirement necessitating the documentation of every workday. Although specific cases have not been identified, the audit report does not recognized the obvious difference between programs.

Through judicial decisions, HRC v. Thornburgh (pertaining to SAW) and Laura Loe v. Thornburgh (pertaining to Legalization), the courts have stated that when applicants have submitted evidence to establish their eligibility, the burden of proof to disprove the validity of the evidence shifts to the government. The Legalization Appeals Unit, which was established by the statutory language of IRCA creating a single level of administrative review, also follows these guidelines in the adjudication of appeals.

FINDING: Unreliable Program Data - The audit team found, "Data reported for applications received, applicants interviewed, and fees collected were inaccurate and unreliable at all organizational levels." (p. 18)

RESPONSE: In the one report cited, we concur that discrepancies exist in the manual statistical reporting by the 109 legalization offices, and the consolidation of that data and reporting the information from the regions to the Central Office. However, we believe the audit conclusion that the discrepancies could mislead decision makers in resource allocations is faulty for the reasons discussed below.

The statistical variances cited in the report with respect to applications received and applicants interviewed are negligible, at best. The variances between Western region and Central Office statistics for application received were less than 2.4 percent and for applicants interviewed less than 2.6 percent. The variances in the Southern Region were less than 0.4 percent and 1.5 percent respectively.

With regard to fees collected, the variances in the Western and Southern regions statistics were 5 percent and less than 0.7 percent respectively. The variance in the Western Region would be significant if it were the only data available for program budgetary planning. However, funds received are also reported through the bank deposit procedures.

We do not believe corrective action is necessary.

FINDING: Inadequate Efforts at Detecting Potential Fraud - The audit team found that efforts at detecting potential fraud are inadequate. (p. 19)

RESPONSE: This finding is hardly warranted by the very limited observation of only one element of the Service's anti-fraud strategy. In Fiscal Year 1988, the Investigations Program funded seventeen special SAW fraud task forces. As a result, more than 650 SAW fraud IRCA-fraud investigations were undertaken. During the year, these efforts generated 75 convictions of SAW fraud document vendors, arrangers or brokers, stemming from over 285 completed or pending prosecutions. In the first quarter of Fiscal Year 1989, twenty SAW fraud task forces were mounted by Investigations resulting so far in 53 convictions of vendors, arrangers or brokers. Of 565,892 applications pending adjudications at the RPF's on February 12, 1989, 74,303 are currently under investigation for fraud.

From the beginning of the Program, emphasis has been placed on detecting potential fraud. The first step to detect and deter fraud was taken with the establishment of the Document Analysis Units (DAUs) at each Regional Processing Facility. These units were established at the inception of the Legalization Program. The primary functions of the DAUs is to analyze and develop intelligence regarding persons known or suspected to be violating the fraud provisions of IRA, in addition to identifying fraudulent documents being used in the legalization process, and to develop profiles of violators or fraudulent document packages.

The Service's anti-fraud program operates in the context of statutory provisions which may be viewed as facilitating fraudulent abuse and hampering prosecution. The statute mandates a lenient standard of proof for SAW applicants and requires the grant of employment authorization upon presentation of a "non-frivolous application." The Service must then disprove the evidence or approve the application. It soon became apparent that many ineligible aliens were taking advantage of these liberal provisions by purchasing and submitting false documents. In an attempt to discourage this fraud, the Service initiated the Pre-interview Verification Strategy. Additionally, the confidentiality provisions of the statute limited the use of information for prosecution for fraud. The confidentiality provision also prohibits the Service from using information in deportation proceedings when prosecution is not initiated. The overburdened court system makes it likely that only a small percentage of fraudulent activity will be prosecuted. This is especially true when the fraud does not involve a large fraud ring. These limitations have severely curtailed attempts to deter fraud.

The audit report referred to the "lookout" process used by the DAUs. This process was an informal arrangement among several DAU directors. It was not mandated or directed by the Central Office. Wide latitude has been given to the Field organization so that anti-fraud strategies may be adopted to cope with differing patterns of fraud and to allow resource management options suitable to local circumstances.

B. INSPECTIONS

FINDINGS: Work Scheduling Practices Increase Overtime/High Overtime Costs - INS schedules work shifts to maximize the use of overtime. Workload statistics, maintained at ports of entry to determine the number and type of inspections performed during each shift, are not utilized when scheduling staff for work shifts. INS has no incentive to try to change the 1931 law since management and staff benefit from its provisions. (pp. 21 and 22)

RESPONSE: While the facts in the auditor's report concerning 1931 Act overtime are essentially correct, the conclusions drawn from those facts do not take into account several underlying and recurrent problems. In addition, the conclusions do not address the progress which has been made since the institution of the user fee legislation, many effects of which are just now being felt.

The 1931 law has been on the books for more than 57 years. It seems ludicrous to infer that INS has the authority to change the legislative interpretation of a public law that has existed for over half a century.

The audit report states that during the past three years inspections increased 8 percent on an annual basis while overtime hours increased 10 percent on an annual basis. The report further states that overtime costs have increased by $8.4 million since 1985. The report does not take into account statutory pay increases, significant employee grade increases, the addition of over 500 inspectors at international airports, and directives by Service management to use all available resources to meet Congressionally-mandated standards on passenger processing times. In order to lower times to the maximum of a one-hour wait, airport staffs were required to work on Sundays and holidays. Such days are characterized by heavy travel and require double time payments to inspectors.

The Inspections Program has historically been the training ground for other divisions of the officer corps within the Service. Examinations, Investigations, and Deportation recruit heavily from the Inspections journeymen ranks. This constant turnover, coupled with increasing passenger loads and growing pressure form the travel industry, has mandated that additional overtime funds be spent on the processing of arrivals by not only permanent, but also temporary inspectors, as well as immigration officers from other divisions.

CORRECTIVE ACTION: As the Inspections Program becomes better staffed due to user fee revenues, the need for the added participation by officers from other programs becomes less necessary. It is a goal of the Office of Inspections that 1931 Act overtime should form approximately one seventh to one sixth of the total number of hours worked, primarily accounting for Sundays and holidays, with occasional use for "call outs" due to unforeseen emergencies. Participation in 1931 Act overtime by officers from other divisions within INS should also decline with the increase in staff.

The Service has recently implemented an overtime accountability and review program covering overtime expenditures at air, land and sea ports incurred by permanent, temporary, and other program officers. Under this program all ports of entry will be surveyed to identify specific problems which either increase overtime expenses or fail to responsibly account for expenditure of overtime funds.

In order to minimize the expenditure of overtime monies to handle regularly scheduled flights and daily land border traffic, several regions have expanded the hiring of temporary immigration inspectors. Significant savings have been realized by doing so. In Western Region alone, the use of temporary inspectors over the past eighteen months has resulted in the following savings in overtime expenditures: Honolulu, 30 percent; Agana, 10 percent; San Ysidro, 20 percent; and San Francisco, 33 percent.

Changes in scheduling practices will also add to overtime savings. Many ports of entry have been operating on the same work schedules for several years without taking into account the change in operational needs, personnel, and traffic. As a result of the overtime usage survey many ports will be instituting scheduling changes which will increase savings. For example, in Agana, Guam, the savings will rise to 50 percent by the end of the fiscal year. Los Angeles will contribute another 20 percent in savings by rescheduling.

In addition to the overtime usage analysis overtime reviews will be conducted during each quarter of the fiscal year. Under this program, one port of entry per region per quarter will be selected based on projected overtime expenditures for the remainder of the fiscal year. Central Office officials will analyze all data comparing traffic loads, shift schedules, overtime usage and accountability, and make formal recommendations for any alterations which would improve efficiency while minimizing overtime expenditures. In addition, other selected ports will be spot checked for compliance with overtime usage policy, scheduling efficiency, and effective utilization of available personnel.

In addition to spot checking selected ports of entry, INS audit teams will visit the following ports of entry during FY 1989 to conduct onsite audits of overtime expenditures at twelve high volume ports of entry. The audit team will make formal recommendations to the respective regions and districts regarding necessary improvements and efficiencies.

In yet another effort to monitor the use of overtime and develop a more responsive and streamlined overtime program, an expert with training in motion-time-method theory will conduct a queuing study of several major airport inspections facilities. Based on the results, recommendations will be made to increase the efficiency and effectiveness of processing methods used within airport terminals, thus decreasing processing time and further minimizing overtime requirements.

FINDING: Lack of Trained Inspectors - Forty-two percent of the Immigration Inspectors performing inspection duties have not attended the 14-week formal training course at Glynco, Georgia. Approximately one-third of INS inspectors are temporary employees who will never receive the 14-week formal training course. (p. 22)

RESPONSE: The ranks of the Inspections Program contain a large percentage of other than permanent full time immigration inspectors. The reasons for this phenomenon are as varied as the ports of entry in which such officers serve. For example, on the northern border there are many small ports of entry in isolated locations which, due to inclement weather during the winter months, are closed for approximately half the year. During warmer months such ports are utilized because of the location of hospitals, shipping facilities, schools, and transportation lines in both Canada and the United States. The most cost effective method for staffing such ports of entry is the use of seasonal inspectors often recruited from the ranks of the teaching profession. These dedicated professionals are employed on a seasonal basis year after year and fill a vital niche in the Inspections Program. In addition to summer hires, other kinds of temporary inspectors such as intermittents and part-time employees are utilized to adequately staff ports during special peak traffic periods. Holidays, summer travel peaks at most airports, winter traffic on the southern land borders, and various local and regional celebrations create predictable long and short term traffic peaks that can best be addressed by the hiring and scheduling of temporary inspectors rather than the use of expensive and unnecessary overtime. The temporary and sporadic nature of employment of these inspectors complicates our ability to adequately train them, but this factor forms no basis to change an existing sound and flexible hiring practice.

All 283 permanent full time immigration inspectors awaiting training have already been scheduled for the Immigration Officer's Basic Training Course and will complete training by the end of FY 1989.

The reason that such a large group of immigration inspectors has yet to receive formal training is twofold. During FY-88, the INS underwent a hiring push to fill all vacant permanent full time positions throughout the Service up to the funded level for each program. This resulted in a bunching effect in the numbers of employees needing training in several programs. Secondly, the existence of the user fee program, created during FY-87, has allowed the Service to create additional permanent full time positions for deployment at air and sea ports without regard to the authorized force limitations imposed by Congress. This contributed to the bunching effect as well. As stated above, plans are in place to remedy the situation regarding permanent full time immigration inspectors.

CORRECTIVE ACTION:

Temporary immigration inspectors, while not eligible for the 14 weeks of the Immigration Officer's Basic Training Course, are trained by various methods. The exact method and time frame for training is often dictated by the geographic location, number of other trainees needing similar training, and the availability of time, materials, and personnel to do the training. The Immigration Office Academy has a local site course of 48 classroom hours in length specifically designed for the training of temporary immigration inspectors. During the last fiscal year this course was successfully utilized four times to train a total of 73 inspectors, while five classes are scheduled for FY 1989. Plans are underway to organize regional training sessions for temporary inspectors. By utilizing this approach, the greatest number of inspectors can receive training for the least amount of money. The Inspections Program goal is to complete all formal training of temporary inspectors by the end of FY 1990.

C. INVESTIGATIONS

FINDING: Lack of Clearly Defined Responsibilities - INS has allowed investigative responsibilities to shift among [its] organizations without clearly defining their authority and responsibility. (p. 23)

RESPONSE: The Service's investigative responsibilities are clearly defined. Geographical overlaps do exist between Districts and Border Patrol Sectors. Jurisdictional overlaps do not, except in the sense that all enforcement components play well-defined roles in the areas of employer sanctions and criminal alien initiatives. District Directors and Chief Patrol Agents sharing geographical areas of responsibility operate under mutually agreed upon memoranda of understanding that clearly define the investigative responsibilities of the districts and sectors. In some instances, new programmatic areas have resulted in special divisions of responsibility.

- In the area of employer sanctions, both Investigations and Border Patrol implement all aspects of the program, including education, investigations based upon leads, and compliance inspections based upon a random selection process. Special memoranda of understanding were developed by all field offices for the sanctions program. Depending upon local management needs, responsibilities may be divided geographically or according to industry. For example, the Border Patrol may assume primary responsibility for agricultural employers while Investigations is assigned industrial and commercial employers within the same geographical area. The Anti-Smuggling program does not develop administrative sanctions cases, but does pursue employment-related smuggling and harboring cases.

- In the INS Criminal Apprehension Program (INSCAP), the Service works to identify criminal aliens at the earliest possible point within the criminal justice system, to permit tracking of cases from the point of arrest through conviction and incarceration. As the corrections community learned of the availability of this service, INS was faced with more requests to participate than any one component could handle alone. Again, the Service adopted an effective organizational plan with the flexibility to make maximum use of all available resources in each jurisdiction. For example, Investigations may implement INSCAP with state facilities while the

Patrol works with local facilities; in other areas, Investigations may handle city jails while the Patrol handles county jails. In each area, field office managers have developed mutually agreed upon divisions of responsibility.

- In the area of drug law enforcement, the Service's emerging role stems from an enforcement mission to protect the public from the harmful effects of illegal immigration activities. As a general rule, this results in drug interdiction at ports of entry by Immigration Inspectors and between ports of entry by the Border Patrol; investigations of drug trafficking organizations with an immigration nexus are conducted by Investigations and Anti-Smuggling independently or jointly when developed through strike force or Organized Crime Drug Enforcement Task Force (OCDETF) activities.

These divisions of responsibility are analogous to those developed within the law enforcement community in recent years to combat criminal narcotics enterprises. Recognizing that law enforcement would be unable to penetrate each organization to the point of successful prosecution for Title 21 narcotics violations, federal agencies have collaborated to disrupt the organizations by applying the full range of federal statutory authority, such as the tax code and customs law. Effective application of the Service's statutory jurisdiction to this coordinated approach has required the participation of all enforcement components.

FINDING: Lack of Clearly Defined Responsibilities - Further, Central Office managers have no authority to implement uniform policies at the regional and district office levels. As a result, there is conflict among the Central Office and regional office managers regarding the execution of investigative responsibilities and resources. (p. 23)

RESPONSE: The auditors appear to misunderstand the Service's management structure. The Service's Central Office managers set policies and define procedures. Regional Commissioners are responsible for overseeing the implementation of those policies and procedures in the districts and sectors under their respective jurisdictions. Compliance is monitored by visits, inspection reports, and evaluation of operations.

FINDING: Poor Resource Allocation Processes - The lack of coordination of the investigative activities had resulted in a high concentration of investigative resources in some geographic areas and virtually none in others. Central Office officials indicated that allocations to regions were based on historical staffing patterns in conjunction with input from the Regional Commissioners. Neither the Investigations Division nor the Southern Region had developed a staffing plan based on workload. (p. 23)

RESPONSE: This audit finding is inaccurate. To the contrary, in 1983 the Investigations Division conducted an extensive study of resource allocation (copy available), which developed a statistical method to identify investigations workload factors, weigh the importance of the factors in terms of current policies and priorities, and establish a standard for resource allocation based on workload factors. The two factors used in the standard were measurements of the alien population and the distribution of businesses in the United States. The result was a resource allocation plan which distributed Investigations resources based on a statistical configuration of investigations workload.

In FY 1987, further study and analysis preceded the distribution of additional positions authorized for the Investigations program by the Immigration Reform and Control Act of 1986. Additional factors were incorporated into the existing allocation method, including the incarcerated criminal alien population, demographic trends, the Case Management System, and the Commissioner's priorities. Consultation with the regions produced several alternative proposals, including a recommended option that was affirmed through the decision memorandum process.

FINDING: Ineffective Investigations Case Management System - The Investigations Case Management System used by INS district, regional, and Central Office personnel is inadequate to track investigations programs and to control investigative resources. The district offices had not developed adequate procedures.... (p. 23)

RESPONSE: Although the audit has identified isolated deficiencies by some field offices in the application of the Investigations Case Management System (ICMS), condemnation of the system based upon a sampling of two district offices is unwarranted. The system itself is a valuable management tool. Since ICMS went into effect in 1983, Service managers at all levels have used it to ensure that resources are devoted to high-quality cases.

In addition, ICMS is not the sole monitoring and tracking device of the Investigations program, nor is its purpose to be the exclusive control for investigative resources. ICMS is used in conjunction with monthly priority reports, the Report of Field Operations (G-23), and the Reports of Obligation Authorization (G-104) to determine overall program effectiveness.

FINDING: Ineffective Investigations Case Management System - For example, the Dallas District Office reported 118 fraud investigations as in-progress for the month of December 1988. We reviewed 114 of the cases and found...Only 1 case was an active investigation; 104 cases opened between 1985 and August 1988 had not been actively investigated; 9 consisted of missing, completed, closed, or duplicate case files. Dallas also reported no cases under criminal alien organizations investigations...but charged 128 work hours to it. (p. 23)

RESPONSE: The types of recordkeeping deficiencies cited in the audit report had been previously identified by Central Office Investigations in an inspection of the Dallas District Office; it appears that corrective action has not been completed. However, closer examination reveals that the cases are in fact under active investigation. The cases are primarily 513.3 single issue marriage fraud cases that have since been found to be part of organized conspiracy (513.1 or 513.2) cases which, under Case Management, receive higher priority. The Dallas District is reviewing and closing out those 513.3 cases that relate to 513.1 or 513.2 conspiracies.

FINDING: Ineffective Investigations Case Management System - In the Atlanta District office...104 individual alien investigations were reported as in-progress but only 22 were assigned to investigators.... (p. 23)

RESPONSE: The auditors appear to have not fully grasped how ICMS works. The 104 referenced cases represent aliens presently serving time in various prisons. The 22 assigned cases represent those cases in which aliens will be released into Service custody in the near future. Eventually, all 104 aliens will be released into Service custody. The auditors were advised that due to resource limitations, cases were being assigned in order of inmate release. The remaining 82 cases placed in progress but not assigned are constantly monitored by the Supervisory Special Agent and assigned according to the inmate's release date.

FINDING: Ineffective Program Implementation at the Districts - INS district officers were not implementing the investigations program effectively. We reviewed investigation activity at two district offices... During

FY 1988 and 1989 the INS Office of Program Inspection examined district office operations...and made similar observations.... (p. 24)

RESPONSE: The audit draws a sweeping conclusion based on ambiguous findings in two unspecified districts. Because the report's examples are so imprecise, it is difficult to respond specifically. (For instance, it is conceivable that the referrals from other INS offices were not accepted because they did not meet Case Management criteria; without specific details, we are unable to explore this possibility.) While many districts may experience procedural problems at one time or another, there is no evidence that these deficiencies occur on a regular basis. As the report notes, the Service's Office of Program Inspection plays an active role in monitoring field office management through an inspection process in which Central Office and Regional managers are advised of potential problems and oversee implementation of corrective steps.

FINDING: Investigative Overlap - The establishment of Border Patrol interior stations has caused significant overlap of investigative activities between the Investigations Division and the Border Patrol. The interior stations were created primarily for the purpose of identifying and apprehending illegal aliens that had moved to the interior. However, the Border Patrol began to work in other investigative areas. (p. 24)

RESPONSE: Concurrent enforcement responsibilities for Investigations and the Border Patrol do not necessarily constitute an "overlap." Border Patrol execution of enforcement responsibilities supplements the Investigations program in the interior, often permitting implementation of priority activities in areas where Investigations could not adequately work due to resource and geographical considerations.

For example, from the start of employer sanctions implementation, the Service recognized that the law could be effectively enforced only through the participation of both Investigations and Border Patrol. Both programs carry out all aspects of the program and follow the same procedures and guidelines, as articulated in the sanctions field manual. The Service's performance in this implementation effort has won praise from diverse outside observers, including GAO. As noted earlier, divisions of responsibility for employer sanctions and other enforcement activities are articulated in memoranda of understanding.

FINDING: Investigative Overlap - The Border Patrol established an interior station near Dallas, Texas, in June 1988. Due to a lack of communication, there were instances when both the district office investigations and Border Patrol agents investigated the same case. In an attempt to prevent duplicate investigations, the Border Patrol and the district office informally agreed to apportion the Fort Worth area to the Border Patrol. This apportionment is not based on investigative authority, but on geographical considerations. (p. 24)

RESPONSE: As the audit notes, the potential for duplicate investigations has been eliminated through the development of a jurisdictional agreement which is based upon resources, capabilities, and need, not solely geographical considerations.

D. ADJUDICATIONS

FINDING: Unaccounted for Certificates - Our ongoing audit of controls over certificates disclosed that one office could not account for 23,059 Certificates of Citizenship and Naturalization. These certificates have an estimated street value ranging from $11 million to $115 million. (p. 26)

RESPONSE: None of the units of either the Central Office or Southern Regional Office of the Service were advised of this finding. The Department of Justice Office of Professional Responsibility has not formally advised the Service of the receipt of this information. The Miami District office states that the office was advised of the issue in a close-out discussion with the audit team, but has been pursuing the problem as a lack of compliance with security procedures, not as an indication that documents were missing.

Current security procedures require that certificates be logged in when received in the stock room area of a particular office. Every security form, including naturalization certificates and certificates of citizenship, shall be controlled by a continuing inventory control. A stock room clerk keeps a permanently bound log book of certificates distributed. All entries are handwritten in ink. An employee of the Adjudications Unit keeps a similar log book of all the certificates received in that office. In the Miami office, from this point, the control process is kept by the Service's Naturalization Casework System (NACS), which consecutively assigns certificates to cases ready for final hearing. Certificates which are voided because of errors are to be logged back in the book and both the log book and the certificates are to be seen and reviewed by a supervisory employee before destruction. The supervisory employee initials the log book in the case of each certificate destroyed.

The audit team, in reconciling the log books of these employees, noted a discrepancy of 23,059 certificates. To report these certificates as unaccountable, and strongly imply that this error in reporting assumes illegal activities by Service employees is careless on the part of the audit team. This approach to reporting a finding is not consistent with acceptable audit procedures. In fact, since the current audit report, the Service has been able to account for the issuance or destruction of 21,854 of the "unaccounted for" certificates, 95 percent of the reported total. The Service will continue to pursue a resolution to the other

5 percent of the cases, which at this time should also be considered to be bookkeeping errors, not improper selling of benefits by Service employees.

CORRECTIVE ACTION: The Service will continue, through automated systems to track the results of the remaining certificates and report the results to the audit staff within 30 days. The Miami office will review all security procedures with employees charged with issuance and control of security forms. The Central Office will review the Administrative Manual to see if any changes in procedures are needed. All corrective actions will be taken within 30 days.

FINDING: Lack of Controls Over Alien Cards - Our 1986 audit of the alien card processing controls determined that at least 61,500 naturalized citizens had not relinquished their permanent resident alien cards when they naturalized. In addition, at least 10 aliens from the four district offices sampled had requested and received replacement cards after they had naturalized. (p. 26)

RESPONSE: Individuals who naturalize are required to either turn in their alien registration card at time of naturalization, or sign an affidavit indicating they have lost their card. The 1986 audit checked the number of individuals who had been naturalized since October 1979 (1,790,412), against the number of individuals who did not turn in their alien registration cards (61,502). It is entirely possible that this small percentage (three percent) is the universe of individuals who signed an affidavit indicating they had lost their card. The Service did agree to systematically advise the Alien Documentation Identification and Telecommunications (ADIT) facility of those individuals who had naturalized in automated Naturalization Casework System (NACS) offices.

CORRECTIVE ACTION: This ADIT-NACS interface has been delayed pending the completion of extensive systems redesign, but will be incorporated in the final scheme. The entire adjudications computerized system will be completed by FY 1994.

FINDING: Inappropriate Access to Central Index System (CIS) Alien Data Base - Our current review of access to the CIS by immigration examiners revealed that 16 percent of the 151 examiners in the Southern Region and 51 percent of the 147 examiners in the Western Region could create, alter, or delete records. This access was granted to examiners without regard to their current duties or job descriptions. This security weakness, when combined with the adjudication responsibility, increases the risk of fraudulent adjudications. This issue was also raised in our 1986 audit of the alien card processing controls, yet INS has not corrected the problem. (p. 26)

RESPONSE: In the latest reply of the Audit Staff concerning the 1986 audit, which was dated September 19, 1988, the Audit Staff considered this issue resolved. INS indicated that the tasks necessary to resolve this issue would be completed during FY 1989, and the tasks remain on schedule. One task was completed during Fiscal Year 1988.

FINDING: Inaccurate CIS Data - Our review of 84 adjustment of status cases from the Dallas Regional Service Center and the San Francisco District Office revealed that 17.4 percent of the data are missing or incorrect. These errors are attributable to system design or failure to enter data. This issue was raised in our 1986 audit of alien card processing controls. INS concurred in 1987 but the problem has not been corrected as of the date of this review. Inaccurate data may lead to granting inappropriate residence status. It may also lead to granting inappropriate replacements for "lost" identity cards. (p. 26)

RESPONSE: The Office of Information Systems has completed various tasks upgrading the Central Index System in conjunction with audit team recommendations. Other tasks have been scheduled for FY 1989. It must be emphasized that actions undertaken will generally affect all initial entries into the CIS from that date forward, and generally cannot supply missing data that was not available in the system prior to the system upgrade. The 1986 audit indicated findings of 27 percent inaccuracy. The current audit therefore shows that the Service has made significant progress in this area, reducing the inaccuracy rate by 10 to 17 percent.

FINDING: Errors in Documentation - We found that 8.3 percent of 84 cases examined in two offices contained documentation errors. Documentation errors may result in aliens being improperly adjudicated. (p. 27)

RESPONSE: The 1986 audit claimed 52 percent documentation error. The Service strongly disagreed with these figures, citing various circumstances where the error was an inaccurate conclusion drawn by the Audit Staff. While the current audit does not identify what constitutes an error, it is possible that the Audit Staff is unaware of some recent changes in the law and regulations. In addition, many of the "errors" cited in the original audit were accounting errors, where actions were taken, but not recorded.

CORRECTIVE ACTION: We continue to work with the audit team to cut down the incidence of documentation errors, and to implement a Servicewide quality review system.

FINDING: No Evidence of Alien Background Investigations - INS' policy is to routinely conduct fingerprint and background checks on aliens who are petitioning to become permanent residents. Cases are then adjudicated within 60 days after the background information and fingerprint cards are sent to the FBI, the CIA, and the Department of State, if no prejudicial information is uncovered.

In our 1986 audit of the Adjudications process, we found that in the 349 cases reviewed, 163 disclosed no evidence of the required background investigations being conducted. In our current review, we examined 51 cases and found that virtually 100 percent of the cases showed no evidence that background investigations and fingerprint checks were conducted. As a result, unfit persons may be allowed residency. (p. 27)

RESPONSE: The Service began an automated computer system name check with the CIA in 1987. The Audit Staff was advised of this fact in our response to the draft audit report which was dated August 9, 1987. In the transmission of the final report, dated October 15, 1987, the Audit Staff considered this issue (recommendation 5) resolved with no further action necessary. The Service also greatly expanded a name check system that was in existence with the FBI. We expect at this time that there is no need to document the fact that a paper name check was made, since no paper name checks to the FBI or CIA should be made in section 245 cases. We are therefore pleased with the results of the latest audit, which shows that district offices are following current procedures. No electronic interface is possible with the Department of State since they do not currently have a central collection point for their Immigrant Visa Automated Capture System (IVACS).

FINDING: Adjudication Backlogs - Nationally, the backlog at the beginning of FY 1987 was 325,000 adjudications and by the end of FY 1988, the backlog had increased to over 408,000. During the same time period the total applications received had only increased from 1.964 million to 1.969 million. Resources have increased by 50 positions, but the backlog has not been reduced. In

FY 1990, INS is projecting a 1.5 million increase in adjudications due to processing of new aliens resulting from IRCA and it has requested $21 million and 412 additional positions. (p. 27)

RESPONSE: The Audit Staff only used partial data in discussing the receipt levels for 1987 and 1988. The audit team only looked at Adjudications' initial receipts instead of total receipts and did not include Naturalization receipts. Although in the past Adjudications and Naturalization were independent, they now operate concurrently as one program.

In addition, when performing workload analysis for the Adjudications and Naturalization program, the measures for border crossing cards are routinely subtracted out because this workload is primarily completed by Inspections. In view of this, the receipt level that the Service uses when looking at the Adjudications and Naturalization program for 1987 is 2,447,803 and is 2,472,953 for 1988.

Despite these calculation adjustments, the audit team did correctly note that the Adjudications backlog has grown. However, by merely looking at backlogs and receipts the audit team neglected perhaps the most important measure of output -- completions. The Adjudications and Naturalization program adjudicated 6 percent more applications and petitions in 1988 (2,480,339) than in 1987 (2,334,590). However, due to decreases in staff, the rate of completions per hour actually increased by 8.7 percent during this time period. Furthermore, completions per hour in 1988 increased 11 percent since 1986. The Service is extremely proud of this accomplishment, which should not be neglected when the allegation of growing backlogs is made. A graphic display of receipts, completions and hours charged is attached.

In its discussion of the 1987/1988 workload, the audit report noted that the Adjudications program increased by 50 positions. This statement implies that the 50-position increase took place during the 1987/1988 time period. In fact, five positions were reprogrammed out of the Adjudications and Naturalization program during this time period.

The statement included in the audit report regarding the 1990 budget request is only partially accurate. The 412 positions and $21 million request was included in the 1990 Office of Management and Budget (OMB) request. However, while the budget was pending OMB action, Congress enacted the Immigration Examinations Fee Account as part of the 1989 Appropriations Act. In view of the anticipated revenue that would be generated as a result of this legislation, the Service advised OMB at the time of its hearing that it was no longer seeking appropriated resources for the Adjudications and Naturalization program in 1990 and thereby withdrew the $21 million request.

CORRECTIVE ACTION: Current initiatives underway to automate case processing, complete non-interview work at the Regional Service Centers under the Direct Mail initiative, and hire new staff should result in the elimination of backlogs and in more effective and efficient case processing.

E. BORDER PATROL

FINDING: High Attrition Rates - The Border Patrol continues to experience high attrition rates at the trainee level. The INS has been aware of the attrition problem at least since the issuance of our 1986 report on the Southern Border Enforcement Initiative. As a result of that audit, the INS responded that it would perform pertinent studies to determine the impact of attrition on the Border Patrol mission. However, there is no evidence that these studies have been conducted. (p. 28)

RESPONSE: Contrary to this finding, the Service has undertaken a number of steps to address trainee attrition, including the conduct of studies. Our records reflect that attrition rates show a steady decline from FY 1986 to FY 1988, as shown in the chart below.

BORDER PATROL TRAINEE ATTRITION RATES
FY 1986 - 1988

Fiscal Year	Academy Attrition (Percent)	Post-Academy Attrition (Percent)	Overall Attrition (Percent)
1986	30.3	18.2	43.0
1987	28.6	18.0	41.5
1988	26.7	10.9	34.1

CORRECTIVE ACTION: A contractor is completing research on attrition during the formal training at the Border Patrol Academy. In addition, the Service conducts exit interviews with unsuccessful trainees on their departure from the Service. The following chart indicates the reasons given by trainees who resigned while attending the Academy from FY 1982 through FY 1988.

REASONS FOR RESIGNATIONS
FROM BORDER PATROL ACADEMY
FY 1982 - FY 1988
(N = 893)

Reason	Number of Resignations	Percent
Spanish	533	59
Personal Reasons	223	24
Physical Training	33	3
Other Employment	32	3
Law	31	3
Medical Reasons	11	1
Other	30	3

These are the steps that the Service has taken to address the major factors listed:

- Spanish. INS has entered into an agreement with the Office of Personnel Management (OPM) to explore use of "artificial" language aptitude tests as part of the examining process. Pilot studies have been conducted and the results provided to OPM for validation. The Service plans to incorporate OPM's analysis into a curriculum review during the summer of 1989.

- Personal Reasons. As part of the Service's recruitment program, every effort is made to prepare applicants for the type of work and working conditions inherent in the occupation. It must be kept in mind that no matter how informative recruitment efforts are, it is only when the trainee begins training and/or reports to the Sector that he or she sees the environmental realities of the position. To alleviate the "culture shock" of duty locations, a program was initiated in 1988 which brought recruits to their assigned areas in advance of academy training. This orientation approach is minimizing the early loss of recruits.

- Physical Training. The Service has expanded its pre-hire physical screening of candidates to identify potential problems posed by obesity, a primary obstacle to obtaining a passing grade in this training.

- Other Employment. The Service recently gained approval from OPM to expand the entry level to include both GS-5 and GS-7, and obtained a special salary rate for both grade levels. Since the new salary rate went into effect only on October 1, 1988, there has not been sufficient time to determine its effect on attrition.

It should be stressed that the primary task to be accomplished through training is to prepare trainees to properly execute their complex duties upon reaching the field. The Border Patrol requires well-trained, capable agents and is not willing to reduce its standards in order to lower attrition.

FINDING: High Attrition Rates - The high attrition rate may have been a contributing factor to the INS not meeting the IRCA requirements. (p. 28)

RESPONSE: The attrition rate at the trainee level is not the major obstacle to achieving the work force levels mandated by the IRCA legislation. Service managers weigh many factors in their hiring projections, not the least of which is the level of funding accompanying mandates to increase staffing. While the Border Patrol program was authorized 5,530 positions in FY 1988, the funded workyear level was set at 72 percent, the equivalent of 3,982 workyears.

The Service implemented an accelerated hiring program in January 1988, with hiring goals that incorporated funding and attrition considerations. Border Patrol hiring goals are traditionally linked with a pre-established training schedule negotiated with the Federal Law Enforcement Training Center (FLETC). During the period September through December 1988, the Service hired over 1,100 new Patrol trainees. In order to accommodate the training needs, the Service took extraordinary measures, and, with coordination by FLETC, negotiated with the Department of Defense to establish a temporary academy at Ft. McClellan, Alabama. Plans to hire an additional 300 trainees during the same time period were cancelled due to funding considerations.

Thus, we dispute the audit's conclusion that the Service was deficient in meeting its manpower needs. The Service has made every effort to honor those commitments. We have demonstrated the ability, given appropriate resources, to recruit, hire, and train any given number of Border Patrol agent trainees. INS cannot hire and fill unfunded positions.

FINDING: Ineffective Management of Equipment - There are no procedures that allow the Central Office or regions to monitor maintenance and repairs of vehicles. INS is currently developing a system which should enable the Central Office and regions to properly manage the fleet. (p. 29)

RESPONSE: As the audit notes, the Service is enhancing its Vehicle Accounting and Reporting System (VARS) to meet its fleet management needs.

FINDING: Ineffective Management of Equipment - As of January 1989, 776 vehicles or 49 percent have met the INS mileage or age requirements for replacement. Estimated replacement costs are $12.6 million. Funds designated in FY 1988 for replacement vehicles were used elsewhere, and for FY 1989 no funds have been allocated for replacement vehicles. (p. 29)

RESPONSE: This finding is incorrect. As of January 1989, the cited vehicles had met minimum criteria, not replacement criteria. General Services Administration (GSA) vehicle regulations apply to INS vehicles. Those regulations establish that a vehicle will not be considered for replacement until it is at least four years old and has 60,000 miles of service. Good management requires that many other criteria must be applied before replacement of a vehicle is considered.

In the fourth quarter of FY 1988, the Service was prepared to purchase some needed replacement vehicles. However, the funds earmarked for that purpose were reprogrammed to another Justice agency at the direction of the Department.

The Service has in place a prioritized procurement plan through which vehicles could be purchased later in the year if funds become available.

F. DETENTION

The audit report attributed the increase in detention time to incorrectly-stated problems with transfers of files and delays in obtaining travel documents, thus ignoring a number of more significant factors affecting detention time. Specifically, the increase is a direct result of the legislative and policy determination to increasingly direct Service resources at deportation of convicted criminal aliens. Criminals have less opportunity to qualify for release under bond, often because of their threat to society. A substantial increase in time is required to prepare for hearings; for instance, the Service must gather various certified records in order to sustain a criminal charge. Similarly, detention time is affected by the increasing backlog in the immigration courts, a factor beyond the Service's control.

FINDING: Improper Management of Alien Information Files - The Bureau of Prisons sends some alien information files to the wrong INS Service Processing Center (SPC). When BOP transfers alien prisoners to another facility, their alien information files are forwarded to the responsible SPC. However, our review showed that the El Paso SPC had 149 alien information files on hand for BOP prisoners who had not been processed into the local county jail. (p. 30)

RESPONSE: The audit incorrectly characterizes the exchange of information between the Service and the Bureau of Prisons and overlooks recent initiatives in the area of expeditious deportation of criminal aliens.

In correction of the audit, it must be stressed that BOP never has possession of Service alien files; the Service has no role in the transfer of BOP files. The Service and BOP are addressing the problem the report apparently refers to--those cases in which BOP transfers alien prisoners across INS district lines to other facilities without notifying the Service.

When the Service locates an alien serving a criminal sentence in the BOP system, a detainer is lodged with BOP requesting that the Service be notified at least 30 days prior to the subject's release. The BOP may subsequently transfer a sentenced prisoner several times without notifying the original INS office. In those instances, an alien may be released to the custody of a District other than the one in which the alien's file is located. For instance, when the audit notes that the El Paso SPC has 149 files on hand for subjects to be transferred into local jails, it ignores the possibility that the subjects were transferred away from the area that El Paso serves.

However, this situation should be eliminated by BOP's consolidation of alien prisoners at the Oakdale facility prior to release, as described below.

CORRECTIVE ACTION: Under the agreement reached with the Bureau of Prisons as a result of the Criminal Alien Act of 1986, aliens serving federal criminal sentences will be transferred to the FCI Oakdale (Oakdale I) six months prior to the expected completion of sentence. The Service will process these subjects through deportation proceedings while they are serving their criminal sentence. Upon completion of sentence, they will be immediately deported. Oakdale I reopened in late November 1988. This procedure is now in place, and the first deportations are now being effected.

To avoid delay in notifying the Service of pending release of aliens serving criminal sentences in non-federal institutions, the Service has developed the INS Criminal Apprehension Program (INSCAP). One aspect of this program involves identification of criminal aliens at the earliest possible point within the criminal justice system, to permit tracking of cases from the point of arrest through conviction and incarceration. Another element is the Institutional Hearing Program, through which the Service conducts expulsion hearings for deportable aliens while they are incarcerated.

FINDING: Inability to Obtain Travel Documents - INS has problems in obtaining travel documents for detainees scheduled for deportation. Our review disclosed that four aliens were released in November and December 1988 because travel documents could not be obtained. INS expects four detainees being held for deportation, one a convicted cocaine dealer, to be released in February and March of this year because travel documents have not been obtained. The inability to obtain travel documents [is] prevalent with Jamaica and most African countries. (p. 30)

RESPONSE: The Service has experienced problems obtaining travel documents for detainees scheduled for deportation. The report implies that the Service is not cognizant of a means to accomplish this end or is somehow remiss in the process. We have taken a number of steps to prevent occurrence of the situation to the extent possible.

The Service has made direct efforts to correct the problems related to the specific groups cited in the report, and has also increased its liaison on these matters with the U.S. State Department and consular offices. However, a number of factors contribute to delays in obtaining travel documents.

For example, Jamaican posse members frequently enter the United States using fraudulent documents or without inspection. Many use assumed names and aliases when apprehended, and there is often little to document their true identity even in their homeland. For this reason alone, they have been unable to secure a valid passport and visa for their own use. Attempts to obtain one time, one way documents for their removal can be forestalled by the alien simply giving false information for the application or in the personal interview by the Jamaican consular officer. Posse members frequently threaten consular officers and their families with reprisal if they are returned. The Service must attempt to obtain travel documents from the Jamaican government through the U.S. State Department. The process is extremely time consuming, and the six month period allowed by Section 242(d) of the Act is easily consumed in the exchange of paperwork and communication.

In December 1988, Central office staff held a series of meetings with both the U.S. State Department and the General Consul of Jamaica to develop the means to expedite the process of obtaining travel documents. Field offices report that this has improved responses to those requests. Liaison continues when specific cases require attention.

The problems with obtaining travel documents from African nations are much the same. However, these problems are multiplied by other factors. The African continent nations are geographically larger and less technologically organized. Add to these issues such factors as frequent government overthrows, wars, insurrections, and mass migrations, and the result is a situation in which it is often impossible to establish an alien's nationality and identity.

Additionally, current Asylum Policy Review Unit (APRU) requirements at DOJ seriously delay INS deportation and extend detention of Nicaraguans. After APRU approval of cases for deportation, the government of Nicaragua, upon request, issues travel documents which are valid for 30 days. However, these documents are issued only after a full investigation, in Nicaragua, to determine the subject's true identity. The delay caused by APRU necessitates additional requests for travel documentation on all Nicaraguan cases. This delay may cause aliens to be released from custody, as the Service cannot legally detain the alien in excess of six months from the date of the final order of deportation.

The Service maintains a reporting system, the 120 Day Detention Report, which enables local supervisors and regional and central office managers to closely monitor problem cases which could ultimately require release.

Since the passage of the Anti-Drug Abuse Act of 1988, the Service has been given the authority to keep aggravated felons in custody during deportation proceedings. The Service will use Oakdale I for this purpose. This will minimize the danger of dangerous criminal aliens being released into the community.

OTHER REPORTABLE MATTERS

FINDING: The auditors noted at least five instances where in the Western Region chartered jets were used to fly top management officials to conferences and openings of legalization offices when public transportation was available. This practice cost the government in excess of $12,000. (p. 31)

RESPONSE: Chartered flights are only authorized under specific circumstances. In each instance, cost and mission requirements are carefully weighed to ensure that the best interests of the government are served. For example, when Regional Officials traveled to remote locations such as some of the small border towns, chartered aircraft were found to be less expensive, in the aggregate, than commercial airfare and the cost of overnight lodging and per diem that would otherwise have been required. In one instance, a planned media blitz in support of the Legalization Program required holding seven (7) press conferences in seven cities within 48 hours. It was determined that information regarding important policies affecting the amnesty population would receive the widest dissemination and reach the largest number of aliens through a high level of media exposure. Given the time-sensitive nature of media coverage, scheduling was critical to success and could not be met through the use of commercial airlines. We believe that the proper use of the media contributed significantly to the success of the Legalization Program and supports the efficacy of decisions such as this. In another instance, a chartered aircraft was used to transport key staff to the INS Service Processing Centers in El Centro, California, and Florence, Arizona, during the Cuban Detainee Crisis. Given that our facilities in Oakdale and Atlanta had been seized by rioting detainees, an immediate response to deal with this potentially volatile situation was warranted.

CORRECTIVE ACTION: All offices will be reminded of the requirement to maintain appropriate records justifying the use of chartered aircraft.

FINDING: On September 7, 1988, INS paid $1,500 for an original oil painting of the INS Commissioner. (p. 31)

RESPONSE: The original oil painting of the INS Commissioner was obtained following a review of Federal policies and practices to determine if such an acquisition would be appropriate. Based upon Decision B-178225, of the

Comptroller General, dated April 11, 1973, reasonable expenses of securing portraits of agency heads are allowable if intended for use as agency furnishings. As a result, the portrait was purchased with appropriated funds available for office furnishings, and now hangs in the headquarters of the INS.

FINDING: The auditors did not find appropriate justification for the purchase of two luxury vehicles (Chrysler New Yorkers at $21,000 each). One was allocated to the Border Patrol but was used by a senior management official in the Western Region. (p. 31)

RESPONSE: The responsibility for the acquisition of motor vehicles is delegated to the Fleet Management Section at INS headquarters. As such, vehicle requirements are normally consolidated and large procurements are made through the General Services Administration (GSA) on an annual or semi-annual basis. In unusual or emergency circumstances, direct purchase authority can be requested from GSA. If granted, agencies may make purchases from GSA approved listings, which are established based on vehicle classification (sub-compact, compact, mid-size, etc.), following small purchasing procedures. In the case of the two vehicles cited in the audit report, direct purchase authority had been granted based upon a request submitted by the Border Patrol for compact sedans. The Western Region identified the Chrysler New Yorker on the GSA approved list of compact sedans and went forward with the acquisition . However, in the post purchase review by the Fleet Management Section, it was determined that, while established small purchasing procedures had been followed, the procurement actions had not been accomplished within the special vehicle acquisition guidelines regarding cost comparisons and purchase price.

CORRECTIVE ACTION: In July 1988 (six months prior to the audit), due to identified difficulties such as those described above, the procedures for authorizing the direct purchase of motor vehicles were revised. Currently, emergency vehicle acquisition requirements are met using the GSA express desk. In unusual circumstances where the use of direct purchase authority might be warranted, the authority shall no longer be redelegated to the Regions and the acquisition will be processed through the headquarters Contracting Office.

CONCLUSION

We continue to be concerned that the audit findings are narrow in scope, not presented in the perspective of overall INS management effectiveness and progress, and do not accurately portray the tremendous accomplishments of the agency and its employees since the passage of the Immigration Reform and Control Act of 1986 (IRCA). When IRCA was passed, tha Service performed under tremendous pressures to prepare for and operate the Legalization, Special Agricultural Worker, Employer Sanctions, SAVE and Criminal Alien programs, while continuing to improve our performance in the other traditional program areas.

For example, the audit findings inferring inconsistencies in legalization adjudications were based on an insignificant sample (less than 250 out of a total of nearly 2 million cases adjudicated). The report totally ignores the impact of the tremendous workloads involved in the programs and the legislative and judicial climate surrounding adjudication of individual cases. In the Inspections User Fee Program, the auditors focused on a minor difference of opinion on the use of a "lock box" deposit technique, and demonstrated no understanding of, or appreciation for, the significant successes of the program. A final example of the report's myopia is its findings on the Service's investigative program. Focusing on general conclusions of overlapping responsibilities and an alleged lack of coordination, the auditors failed to note the Service's significant accomplishments in the Employer Sanctions and Criminal Alien programs.

The accuracy of the audit report is clearly subject to challenge. Of the 50 specific findings in the audit report, we concur with only 5. In contrast, we strongly disagree with a full 25 of the findings and partially concur with 20. Again, it bears repeating that almost one-third of the findings are minor in light of the overall mission and the significant achievements of the Service. Finally, these findings must be evaluated within the broader context of INS' many impressive accomplishments during a period of rapid growth and change.

We view the audit results as an opportunity to continually improve the management and operations of the Service. INS officials have reviewed the audit findings and are actively developing action plans to address the supportable deficiencies which were identified in the audit report. We will vigorously monitor the implementation of the action plans, and we welcome the opportunity to work together with JMD in addressing the unresolved issues in a mutually agreeable manner.

Senator **Kennedy**. As you know, I monitor this quite closely up in our region of the country, and I must say that you have been responsive, and your people have, up in New England. I don't watch it as closely in other parts of the country, but we will look forward to your testimony.

Mr. **Nelson**. Thank you, Mr. Chairman, and, again, thank you for the opportunity——

INTRODUCTION OF ADMINISTRATION WITNESSES

Senator **Kennedy**. I am sorry. We have got to introduce our panel here. We welcome our Commissioner, and he has been a frequent guest and we have always valued his testimony and we are glad to have him back.

We want to thank, also, Assistant Secretary Joan Clark from the Bureau of Consular Affairs. She has assisted the subcommittee in ways more than just providing testimony. She has facilitated the assignment to the subcommittee of two very highly qualified consular officers for a year's assignment here, and we have greatly benefited from that program. We are grateful.

Eugene Lawson, Deputy Under Secretary of the Bureau of International Labor Affairs of the Department of Labor—we are glad to have all of you. We will ask you, perhaps, to summarize your testimony, if you would.

PANEL CONSISTING OF ALAN C. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE; JOAN M. CLARK, ASSISTANT SECRETARY FOR CONSULAR AFFAIRS, DEPARTMENT OF STATE; AND EUGENE K. LAWSON, DEPUTY UNDER SECRETARY, BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR

STATEMENT OF ALAN C. NELSON

Mr. **Nelson**. Mr. Chairman, thank you. And, again, I appreciate the earlier opportunity to respond to the audit report.

Regarding the testimony, we would like to submit the written testimony that has been provided, and I will just summarize and make a few points beyond that.

I would like to maybe address the process, and I think you and Senator Simpson and Senator Simon also all did. Certainly, all of you need to be commended for the Kennedy-Simpson bill, Senate bill 358, and also Senator Simon for his Senate bill 448.

It is very important, I think we all agree, and I will do everything I can, and I know my colleagues will, to try to move the legal immigration reform process through the Congress and the administration.

As you all pointed out, the effective action last year, the 88 to 4 passage of your bill, was a testimony to your leadership and the respect your colleagues have for you. And I hope that you do promptly repass your legislation and move it along.

We have made some references to the House. I think we all also hope that the House of Representatives this year will take a more aggressive action than in the past to get their own bill introduced, or bills, and to move the process forward.

Similarly, within the administration, we obviously have a change of administration. There is time to get things moving, but it is certainly my intention and INS' intention to move forward the package that we had prepared before to the Attorney General.

Last year, Attorney General Meese reviewed that, submitted it to the Cabinet and the Domestic Policy Council. We were having a number of very good debates within the Cabinet on that. It was moving along—not easy there, as it is not easy here, but it was making progress. But then we came to September, the end of the session, and so it stopped.

My hope and intention is that we within the administration will again take a hard look not only at your bills, but the other ideas that are out there, so that the Bush administration can take a very active role with the Congress in moving legal immigration forward.

I think we can all properly and proudly look back at the passage of immigration reform legislation in 1986 as a great example of bipartisan cooperation not only within Congress, but the bipartisan work with the administration and the Congress.

I think we can all be proud of that and the fact that IRCA is working well. The only difference, I would say, between IRCA and this is that it hopefully doesn't take 6 years or so; that we can move in this Congress, or even hopefully in 1989.

We set forth in our testimony on page 2 a number of policy goals that we think are important in the legislation. We think you largely have them without reading them all, but the first is accommodating to unify the closest family members, and also providing greater opportunity for the entry of those who have job skills, education, and other characteristics that would promote the national interest. That is certainly the key point and we think your bill has the right approach there.

We need to continue to preserve and promote diversity in our sources of immigration, which I think has been a very positive thing for this country. Third, preserve the value of citizenship and enhance that in many ways; and, fourth, balancing the benefits of immigration with the needs of the economy and the overall concerns of the national interest.

We certainly believe, Mr. Chairman, that Senate bill 358 is a very good foundation of these points and is an excellent start. You do have a balance of family unification and independent categories, and the administration supports those basic concepts. We do believe there are a number of areas that can be fine-tuned, and we know that as the process goes on that we will have that opportunity to submit additional thoughts.

I think one of the big issues for Congress and the administration is how boldly we approach the problem, particularly the preferences, the second, fourth, and fifth. I know there are some strong feelings, but I do think it is important for Congress and the administration to be bold and to deal with these issues as we move forward.

The same with the numbers; there is a lot of talk of should they be higher, lower, should there be a cap. I think, again, these should be openly debated. Going on the numbers, certainly, the Reagan administration was a firm believer in high levels of legal immigration, and I am convinced the Bush administration will have that same principle.

We all recognize the need to control illegal immigration to preserve the heritage of legal immigration. IRCA has been a major start in that direction. As you know, we are proud that we have had a 40-percent reduction in border apprehensions since IRCA, as well as some significant improvements in other areas, and we think it is on its way. It has got, certainly, a way to go, but we must continually keep that in mind to keep the illegal numbers down, and that might give us the ability to even add some bigger numbers to the legal program.

An interesting issue that always comes up—and I think, again, your bill certainly deals with it, and Senator Simon's also. You know, I was in Mexico recently, and we often hear Mexicans and others saying, well, demographics are such that in the United States in 10, 20 years, you are going to need a lot more labor, and then sort of the implied deal is, well, don't stop illegal immigration. I think that is where we part.

Obviously, if there is a need for more legal immigration, we have the structure partly in the law now, and more so in the law that you are proposing, to allow a legal mechanism. That is the essential ingredient. Either for permanent immigration or temporary, do it under a legal system. If we do that, I think we can preserve the heritage as we want it.

Another point that I think is important to emphasize is citizenship. We think there ought to be more emphasis on that maybe as a basis for petitioning, and that is something we would like to work with the Congress downstream on, focusing to encourage more people to move down the track from permanent residency to citizenship.

In that regard, one issue, again, based on the past years of the Reagan administration, and I am convinced that the same would be true in the Bush administration, is the idea of moving to an administrative naturalization in lieu of the current system requiring a judicial naturalization. That would be a big mistake.

The aura, the dignity of the courts is very important. One of the reasons administrative naturalization was promoted back 6 or 8 years ago was that we had some backlog problems and we had some court problems. I think we have largely gotten away from both of those, so that the need for moving away from any roadblocks is gone.

The dignity is so important. Going before a court is—sometimes, the only time a person has that opportunity is when they are naturalized. I think all of us have been involved in those ceremonies, and I can think back last September when then Vice President Bush, Attorney General Thornburgh, former Chief Justice Burger, Chief Justice Robinson of Washington District Court, and I were present on Constitution Day at a court ceremony and how important that is. And I would hate to get away from that and I would hope the committee would consider not moving forward on an administrative naturalization program.

Another issue that I think is worthy of addressing, and the State Department has expressed interest, and that is of a special category of some 20,000 to 30,000. I have heard there is recently a proposal for 60,000, which is probably too high, but the idea of a special category that the President, or Secretary of State, or Attorney General, or a mixture of those, with consultation with Congress, could use, as an example, in the Soviet Union situation or others, has some flexibility.

We think the concept is good; we thought of it. Some people had stated initially that they didn't like it, but George Shultz discovered it and thinks it is great and has promoted it and has asked the Attorney General to support it, and he has.

There is one issue as to whether that ought to be a separate bill or part of an overall bill. My personal recommendation is it ought to be part of an overall immigration reform bill.

The backlogs do need to be addressed. I know your bill does do so in some ways. And we think while no bill should be there just for addressing backlogs, we recognize that backlogs are a serious problem. Senator Simon alluded to that. So, we think that the bill properly can deal with some of the backlog issues.

So, Mr. Chairman and members, those reflect several of our thoughts. Just in conclusion, certainly the Immigration Service, the Department of Justice, and I know the other departments are eager to work with the Congress to reach the fruition of a good legal immigration reform bill.

Thank you.

[The prepared statement of Mr. Nelson follows:]

TESTIMONY OF THE U.S. DEPARTMENT OF JUSTICE IMMIGRATION AND NATURALIZATION SERVICE

BEFORE THE

SENATE SUBCOMMITTEE ON IMMIGRATION
AND REFUGEE AFFAIRS

CONCERNING LEGAL IMMIGRATION

MARCH 3, 1989
AT 9:30 AM

ROOM 226 DIRKSEN SENATE OFFICE BUILDING

Mr. Chairman and members of the Subcommittee:

I appreciate the opportunity to appear before you today to express the views of the Department of Justice on S. 358, a proposal to amend the Immigration and Nationality Act. Speaking on behalf of the Department, I am gratified that Senators Kennedy and Simpson have moved quickly by introducing this bill so early in the 101st Congress.

The Department strongly believes that, since substantial progress has been made toward dealing with illegal immigration through the passage and implementation of the Immigration Reform and Control Act of 1986 (IRCA), it is now appropriate to turn our attention to reform of the legal immigration system of this country. Statutory reform is needed to correct the inadequacies of the current system and to determine the future direction of our nation's immigration policy.

S. 358 is an important part of the reform process. As I will explain, we support the basic concepts of S. 358 and feel that it is a good start, but we believe that certain modifications should be made in its approach.

Before expressing the specific views of the Department on the proposed bill, I would like to note four important policy goals that the Department has identified which should guide immigration reform. These goals are:

(1) accommodating the need to unify the closest family members of citizens and lawful permanent residents, while at the same time providing greater opportunity for the entry of those who may not have close relatives in this country, but who do have job skills, education, and other characteristics that would promote the national interest;

(2) preserving and promoting diversity in source of immigration, so that this country will receive the benefit of significant contributions from a wide variety of cultures;

(3) preserving the value of citizenship, and ensuring that new citizens develop an understanding and appreciation of the institutions and values of the United States; and

(4) balancing the benefits of immigration with the needs of the economy and the concerns of many Americans over the rate of immigration.

It is worthwhile to state explicitly that each of these goals must be viewed in light of what is in the best interests of the United States.

LEVEL OF INDEPENDENT AND FAMILY IMMIGRANTS

The Department applauds the creation of separate categories for family connection and independent immigrants. We also applaud consideration of the bill's provision of giving a greater proportion of visas, than currently available, to those in the independent category. These visas will go to people who may not have family members in the United States but who have skills or other characteristics which would promote the national interest.

PER-COUNTRY LIMIT

S. 358 provides for amendment of the provision of current law which limits the annual number of new immigrants from any one country or dependent area. Unlike current law, the bill provides for separate per-country limits, one for family connection immigrants and one for independent immigrants. A longer delay for a family connection immigrant from a country sending many family connection immigrants to the United States would necessarily result in a shorter delay for a family connection immigrant from another country, one sending fewer such immigrants. Similarly, longer delays for independent immigrants from countries sending many independent immigrants to the United States would result in shorter delays for independent immigrants from countries sending fewer such immigrants. The Department believes that the issue of per-country limits should be the subject of further examination by the Congress and the Executive Branch in order to ascertain the best way to preserve a desirable level of diversity in the immigrant population.

BACKLOG REDUCTION

We do not dispute the view that a well-designed immigration system would minimize backlogs. However, we believe that backlogs should be addressed and or reduced by a restructuring of the preference categories, not by simply providing additional numbers for this purpose. In effect, the latter approach would constitute a retroactive repeal of the numerical limits previously approved by Congress, which recognized that U.S. immigration policy cannot be determined solely by the nearly inexhaustible demand abroad for opportunities to reside in the United States.

PREFERENCE SYSTEM

Family Preferences-The Department agrees that significant changes to the family reunification preferences should also be considered. We support the retention of the visa category for unmarried sons and daughters of U.S. citizens, as found in S. 358. However, additional age restrictions might be considered for the category of spouses and unmarried sons and daughters of permanent residents.

Independent Preferences-We generally support the overall direction in the independent preference coverage of the bill. The division of the occupational preferences into those with advanced degrees or exceptional ability and those who qualify as skilled workers is a definite improvement over the current system. Issuance of visas by random selection would not necessarily result in the most qualified immigrants receiving visas.

Senator **Kennedy**. Ms. Clark.

STATEMENT OF JOAN M. CLARK

Ms. **Clark**. Mr. Chairman, Senator Simpson, Senator Simon, I am pleased to appear here today to present the Department of State's comments on Senate bill 358, which would make major changes in our country's legal immigration system. Because it impacts on our foreign relations, immigration policy is of continuing interest to the Department of State. Also, this bill greatly affects consular operations both in Washington and overseas.

For the record, my written statement for the subcommittee provides a detailed analysis of the bill. My oral presentation today will touch upon the main points. There are three key questions. How will immigration likely be affected by the changes proposed in the bill? What will be their impact on our administration of the immigration system? What will the extra cost be?

The bill—assuming no revisions of the limitations under the triennial reconsideration provision—would establish for a period of time an annual overall ceiling on nonrefugee immigration of 590,000—440,000 for family members plus 150,000 for independents.

Under the family connection limitation there would be four preferences, similar to the existing relative preferences, but not identical to them. The independent limitation would consist of five preferences. The system of foreign state and dependent area limitations—referred to as the per-country ceilings—would undergo a major and very significant change. Analyzing the effects of such changes is very complex because they are interrelated.

Immediate relatives and family preference immigrants are all included within the overall annual limitation for family members. With this in mind, we have studied two possible scenarios under this bill: One in which the level of immediate relative immigrant visas remains static; and one in which visa issuance to immediate relatives rises.

In the static case, the numbers available to the new first and third preferences would probably be sufficient to provide for visa demand, except from over-subscribed areas. In the short run, we foresee an improvement in the situation in second preference, where numbers would increase by roughly 50,000 annually. There are factors, however, which eventually could counter-balance the increased visa numbers for this preference. We project increased demand in the second preference from families of amnestied aliens and from families of immigrants under the fifth independent preference.

The most dramatic effect of Senate bill 358 would be reflected in the fourth family connection preference. Overall, despite some provision for backlog reduction in the first 3 years, the waiting period in this preference would be lengthened radically by Senate bill 358. The revised definition of those qualifying under the fourth family connection preference will decrease new registrants, but because fewer numbers will be available in the category, the weight of the backlog of 1.4 million applicants will be overwhelming.

In the more likely scenario, immediate relative immigration will increase annually at a rate approximating the 6.2-percent average rate experienced during the period 1970 to 1987.

As more immediate relatives immigrate, family preference numbers would fall, on a one-to-one basis. Potential backlogs are troubling from the standpoint of family reunification. I think it is appropriate to flag now potential problems in this area. In year 8, according to one calculation, family connection visa numbers could be just 40 percent of the numbers available in year 1. Obviously, this assumes no revisions of the limitations under the triennial reconsideration provision. It is very difficult to predict how demand will evolve under the independent preferences. We expect that the demand will be heaviest from the areas which are the source of immigration today, given the economic, political, and social conditions which provide the impetus to migrate.

The procedural challenges of selecting immigrants for the fifth independent preference through a point system are discussed at length in my written statement. This appears to be the most burdensome and costly innovation under the bill. Receiving and archiving millions of applications, tallying the points claimed, conducting a random selection, eliminating fraudulent claims, evaluating English language ability, assessing educational equivalence—all these activities will be labor-intensive and logistically challenging. I appreciate that the point system was designed to select immigrants most likely to contribute to our society and economy, yet, attaining this goal has its costs.

This week, we begin a month-long registration of applicants for the diversity program random selection under the Immigration Amendments of 1988, Public Law 100-658. Judging from the number of inquiries we have received here and around the world, we expect from 10 to 20 million applications for the 20,000 visas. In fact, the post office has set aside a separate zip code just for this registration. This is only a minipreview of what we can expect during the projected biennial registration periods for applicants under the point system.

Finally, costs and funding issues have to be addressed. We estimate that Senate bill 358 would cost an additional $530 million in the first 5 years of its operation. This is based on processing 220,000 visas beyond the number projected under our current law. We include the costs of automation, and the substantial costs, some $367 million, of administering the selected immigrant program under the fifth independent preference.

We would need $60 million up front for startup costs, and increased annual appropriations to cover operating costs. Fee collections have traditionally not covered the entire cost of immigrant visas, and the fees have been deposited to the general treasury rather than to the State Department account.

Mr. Chairman, I thank you for your invitation to appear here today to discuss the very important issues of legal immigration reform. This completes my formal statement, Mr. Chairman. I would be pleased to respond to any questions you or the other members of the subcommittee may have.

[The prepared statement of Ms. Clark, along with questions and answers, follows:]

THE TESTIMONY OF THE HONORABLE
JOAN M. CLARK
ASSISTANT SECRETARY OF STATE FOR CONSULAR AFFAIRS

BEFORE THE SENATE JUDICIARY SUBCOMMITTEE ON
IMMIGRATION AND REFUGEE AFFAIRS

ON

S. 358
IMMIGRATION ACT OF 1989

MARCH 3, 1989
9:30 A.M.

Mr. Chairman, members of the Subcommittee, I am pleased to appear today to present the Department of State's comments on S. 358. This bill, which is substantively identical to S. 2104 as it passed the Senate in the 100th Congress, would make major changes in this country's legal migration system.

Changes in immigrant selection criteria and numerical limitations have major implications for domestic social and economic policy. They also have a significant foreign relations impact. As an extreme example, a reversion to the pre-1965 system of national origins quotas would certainly create very serious problems in our relations with a number of other countries.

In my statement today I will cover three topics -- how immigration is likely to be affected by the proposed changes; the administrative considerations of the proposed changes; and the anticipated costs of these changes.

IMPACT ON IMMIGRATION

Under S. 358 the existing overall annual limitation on immigration of 270,000 would be replaced by two separate annual limitations -- one on family members; the other on "independent" immigrants. In addition, for the first three years after enactment, there would be a third limitation, solely for backlogged brothers and sisters of citizens. The bill would provide for a triennial reconsideration and possible revision of either or both of the permanent limitations.

The bill -- assuming no revisions of the limitations under the triennial reconsideration provision -- would establish for a period of time an annual overall ceiling on non-refugee immigration of 590,000 -- 440,000 for family members plus 150,000 for "independents" -- an increase of about 90,000 above the level of immigration in 1988. Even without revisions, however, that overall ceiling would not remain indefinitely, since there is no provision for limiting the number of "immediate relatives." Thus, should that number grow beyond the 440,000 figure, the ceiling would then become 150,000 plus whatever number of "immediate relatives" might immigrate in any given year.

Under the "family connection" limitation there would be four preferences, similar to the existing relative preferences, but not identical to them. The Independent limitation would consist of five preferences. The system of foreign state and dependent area limitations -- referred to as the "per country ceilings" -- would undergo a major and very significant change. Analyzing the potential effects of these changes is very complex, since they are interrelated.

Family Connection Limitation

To consider how the new provisions might affect immigration by relatives of citizens and permanent residents it is necessary to first consider the question of immediate relative immigration. The level of relative preference immigration -- characterized in this bill as "Family Connection" -- would be determined by the level of immediate relative immigration. This is true both overall and with respect to individual foreign states and dependent areas.

Between 1970 and 1987 immediate relative immigration increased at an average rate of 6.2% annually. In 1987 and 1988 the level of immediate relative immigration remained virtually at the 1986 level. The basic question then is whether the level of immediate relative immigration will remain static or resume the pattern it exhibited during the period 1970 - 1987. I will consider each case in turn.

If one assumes that the level of immediate relative immigration will remain static, one can then use FY 1988 statistics and calculate with some degree of accuracy how S. 358 would affect relative preference immigration. The first year of operation of the bill, FY 91, would be based on FY 90 statistics. These should not be much different from the FY 88 figures we now have.

The Family Connection limitation would be about 220,000 on the basis of FY 88 figures for immediate relative immigration and the other classes included in the calculation. Under this limitation, the four preferences would be apportioned as follows:

S. 358 for FY 91				FY 88 Actual Usage
First	(FC-1)	15%	33,000*	(1st pref - 13,000)
Second	(FC-2)	65%	143,000*	(2nd pref - 107,200)
Third	(FC-3)	10%	22,000*	(4th pref - 23,000)
Fourth	(FC-4)	10%	22,000*	(5th pref - 66,000)

* Plus any "fall down" numbers

Under the current system, the lower relative preferences are entitled to use any portion of the percentages assigned to the higher preferences but not used by them (so-called "fall down" numbers). This also would be true under the proposed Family Connection limitation. In addition, the First Family

Connection preference would be entitled to use any portion of the limitation which might remain if the four preferences did not make use of the entire limitation.

Again using the 220,000 figure for the overall Family Connection limitation, the limitation for any single foreign state would be 15,400 and that for any single dependent area would be 4,400.

First Family Connection Preference. There would be a substantial reduction in the numbers available to the First Family Connection preference -- 33,000 down from 54,000. Nevertheless, this preference would likely remain current. Usage under this preference has been below 15,000. It is likely to remain well below the 33,000 limit even though there have been some increases in recent years. Thus, the effect of the reduction from 54,000 to 33,000 would be to reduce the amount of unused visa numbers which could "fall down" to the Second Family Connection preference.

Second Family Connection Preference. The numbers available to the Se~~cond F~~amily Connection preference would increase from about 110,000 to roughly 160,000. The second family preference category would be more narrowly defined under S. 358. Among immigrants from the second preference in 1988, 25 percent would not have qualified under the proposed new definition, since they were aliens age 26 or older or the children of such aliens.

Initially, this 50,000 increase likely would mean that the waiting period in this preference, which is now roughly 18 months, would be reduced considerably. In addition, if the numbers available to this preference remained at that level for several years, the waiting period could be virtually eliminated, except for immigrants from the oversubscribed foreign states and dependent areas.

Over a slightly longer term, however, there are factors which could counterbalance the increased visa numbers for second preference. Within the next several years large numbers of aliens will acquire permanent resident status under the provisions of sections 210, 210A, and 245A (all added by the Immigration Reform and Control Act). One cannot know how many of those aliens will have spouses and children for whom they will file preference petitions, but it seems clear that there will be many. In addition, there is within S. 358 a provision which could add considerably to the total. The Fifth Independent preference -- the new Selected Immigrant class -- is not available to the spouse or child of a Selected Immigrant and does not provide derivative status for the Selected Immigrant's spouse or child. Thus, a Selected Immigrant who was married would have to immigrate and then file a petition to accord his or her spouse and children the Second Family Connection preference. While we cannot predict the number of the Selected Immigrants who might be married we have to assume that many will be.

Third Family Connection Preference. The numbers available to the Third Family Connection preference would also decline, from 27,000 to 22,000. World-wide usage in FY 88 was slightly above that total and, thus, this preference could become oversubscribed. On the other hand, declines in usage by natives of oversubscribed foreign states and dependent areas, subject to the requirement for prorating the foreign state or dependent area limitation, could keep this preference current world-wide. This would increase the waiting period for natives of the oversubscribed foreign states and dependent areas.

Fourth Family Connection Preference. The most dramatic effect of S. 358 would be reflected in the Fourth Family Connection preference. The numbers available annually for that preference (roughly equivalent to the current fifth preference) would be reduced from 64,800 plus annual fall down to 22,000. Under S. 358 the visa numbers available in this category would decline approximately 45,000.

The three-year provision for 30,000 visa numbers exclusively for aliens in the backlog in this preference would make the effective reduction only about 15,000 per year for the three years. After that, however, the full reduction would take effect. In addition, it should be noted that the foreign state limitation is not applicable to the additional 30,000 visas for this purpose. Accordingly, those visa numbers would be allocated in chronological order, without regard to foreign state or dependent area limitations. It is our best estimate that virtually all of those visas would go to natives of Mexico -- about 25% or 22,500 -- and the Philippines -- about 75% or 67,500 over the three-year period.

Overall, the waiting period in the Fourth Family Connection preference would be lengthened radically by S. 358. The 90,000 visa numbers available over three years to these aliens is so small in comparison to the total waiting list -- some 1.4 million aliens -- that it would not have a meaningful effect on the waiting period.

The narrower definition applicable to this category would greatly reduce the new registrants (in FY 88 less than ten percent of the fifth preference immigrants would have qualified as never married brother or sister of a U.S. citizen). However, given the backlog, new registrants will be waiting in line into the next century.

We have provided the scenario above, which assumes static immediate relative immigration, to help in describing the effect of a more likely scenario. That is, if the level of immediate relative immigration should resume its long-term pattern of increase, the situation would be quite altered. As the level of immediate relative immigration rose, the overall Family Connection limitation would decrease correspondingly, on a one-for-one basis. Likewise, the foreign state and dependent area limitations under the overall limitation would decrease since they are expressed as percentages of the total rather than in terms of an absolute number.

We believe there are sound reasons for projecting that the rate of immediate relative immigration will, in fact, again increase -- if not in FY 89, then by FY 90 or FY 91. There is a possibility that the leveling off of immediate relative immigration, which is contemporaneous with the enactment of the Marriage Fraud Act of 1986, is also a result of the Marriage Fraud Act. If this connection could be demonstrated, it would argue for a continuation of the trend. On the other hand, there is no direct evidence that the two events are connected.

Also, until 1987 annual naturalizations had been increasing for some years. There was a sharp decline in naturalizations in 1987, which we believe was an aberration. The large number of aliens who acquire permanent residence under IRCA will eventually become eligible to naturalize. They will have been required to pass English and civics examinations or to study those subjects. Presumably, they will be well placed to complete the process of naturalizing when they become eligible.

If the rate of increase in immediate relatives were to be five percent, for simpler calculations, rather than the 6.2% experienced between 1970 and 1987, then the Family Connection limitation would decline from 220,000 in the first year to about 200,000 in the third year.

If these calculations are projected into later years, the effect on the family preferences becomes increasingly more drastic, and large backlogs can be expected. Even now, for example, backlogs in second preference are causing distress to affected families. Either they remain separated or they look for a route to illegally enter the U.S. I believe it appropriate to flag here potential problems in this area.

Independent Limitation

Unlike the Family Connection limitation, the Independent limitation would be fixed, at 120,000 for the first three years and at 150,000 thereafter, subject also to the periodic reconsideration and revision procedure. It is very difficult, if not impossible, to predict how demand would evolve under these preferences. We do not anticipate, however, a significant shift away from the areas which are the source of immigrants today. In those areas, economic, political and social conditions provide the impetus for emigration.

First Independent. The First Independent preference would be allocated 5% of the limitation or 6,000 visa numbers during the first three years and 7,500 thereafter. Certain classes of Special Immigrants under section 101(a)(27) would be included in this preference. Demand in these classes has been small, well below the authorized total, and has been relatively static. It appears that roughly half of the authorized visa numbers would be unused and would be available to the Fifth Independent (Selected Immigrant) preference. The unused visa numbers would be available to the Selected Immigrant class because, as the bill is written, the Second, Third and Fourth Independent preferences cannot use visa numbers unused by the higher Independent preferences.

Second and Third Independent. The Second and Third Independent preferences would each be allocated 23% of the limitation. For the first three years this would equal 27,600 visa numbers each; thereafter the total would rise to 34,500 each. Thus, these preferences, which are similar to the current third and sixth preference, would initially remain at roughly their current level and thereafter increase by slightly less than a third.

Future demand in the Second Independent preference could be much smaller than in the current third preference, since the Second Independent preference would include only aliens holding advanced degrees and scientists, artists and businessmen of exceptional ability. On the other hand, there is no basis for estimating the number of aliens who might qualify as businessmen of exceptional ability, as that class is not now provided for in the law. Moreover, we cannot speculate on how the revisions of the labor certification requirement which are included in the bill might affect the number of approved labor certifications.

Future demand in the Third Independent preference is also difficult to assess. It appears that it will exceed demand under the current sixth preference, since professional-level workers holding only baccalaureate degrees, who now qualify for third preference, would not qualify for the Second Independent preference. They would [illegible] compete in the Third Independent preference. On the other hand, aliens who are not professionals with a baccalaureate degree and who hold jobs for which less than two years training or experience is required would be excluded from the Third Independent preference, although now included in the current sixth preference. We have no basis for assessing the extent to which these two changes would offset each other. In addition, the revision of the labor certification requirement could affect the number of aliens who qualify to compete for the Third Independent preference, just as it could affect the number competing for the Second. Again, we have no basis for predicting how it might affect the numbers.

Fourth Independent. The Fourth Independent preference, for aliens investing at least $1,000,000 in an enterprise which would create ten jobs for citizen or permanent resident workers, would be allocated 5,000 visa numbers per year for the first three years and 6,000 annually thereafter. There is no class under current law with which this could be compared. Given the size of the investment required, it would appear that demand would not likely exceed the allocation.

Fifth Independent. The Fifth Independent preference would include immigrants selected "at random" from among those who scored 50 or more points under a point assessment system. Under this system, points would be awarded for age, education, English comprehension, occupational skills, occupational training and work experience.

The visa numbers available annually to this preference during the first three years would be 53,800 at a minimum. If the levels of demand in any of the other four proposed "independent" preferences were below the allocation, the unused portion of that allocation would become available to this preference. Even so, the numbers available in this category will be very small in relation to anticipated demand.

ADMINISTRATIVE AND WORKLOAD CONSIDERATIONS

Transition Issues

The transition in certain independent categories would be cumbersome to administer. As written, the beneficiary of an approved third or sixth preference petition (except the beneficiary of a sixth preference petition who was an unskilled worker) could elect to become a Second or Third Independent preference immigrant. Operationally, this provision would require that some 30,000 letters be sent to petitioners for third preference immigrants informing them of this option and asking each to select one of the two preferences. Also, some 100,000 sixth preference petitions would have to be individually reviewed to determine whether the beneficiary was a skilled or unskilled worker. In those cases in which the beneficiary was determined to be a skilled worker a similar letter would have to be sent to the petitioner. Both of these steps would be labor-intensive and time-consuming.

More important perhaps would be the confusion the letters would create when received by the petitioners. Typically, the petitioners would have no idea which of the two preferences to select and would, thus, select the one which seems to them the most favorable -- the Second. Should this occur, a sudden backlog of several years would be created in that preference. Once petitioners realize this (after having made their selection), they likely would wish to make a second selection, but the law does not appear to allow for that. This transition provision should be reconsidered.

The Points System for Selected Immigrants

I will discuss the points system in some detail to provide as clear a picture as possible of the serious administrative burdens it entails. I also will discuss its costs. I appreciate that the points system was designed to select immigrants most likely to contribute to our society and economy, yet attaining this goal has its costs.

The Department believes that the proposed "selected immigrant" class would be both difficult and costly to administer. The number of applicants likely will be very high -- probably in the millions, possibly in the tens of millions. An alien holding a bachelor's degree who spoke and understood English and was under age 36 would automatically qualify by attaining 50 points for those characteristics alone. Since English has become the principal world language of higher education there are throughout the world huge numbers of aliens who can attain fifty points by reason of age, higher education and competence in English. The number of skilled workers who might qualify on the basis of occupational skills is much more difficult to assess, as it would be dependent upon determinations of the Department of Labor concerning the occupational outlook in our economy. Should any significant number of occupations meet the requirements of the statute, the number of skilled workers around the world who would qualify also could be very large.

Applications. A massive influx of applications would create substantial administrative problems. There would have to be an initial screening by consular officers in Washington, D.C. or at our overseas posts to verify that each applicant had at least asserted a claim to the minimum point requirement of 50 points. Because of the two-phase selection system -- the first from among those who scored 80 points or more; the second from among all those scoring 50 or more -- each applicant's claimed number of points would have to be tallied.

While it is not made explicit in the text of the bill itself, it appears to be intended that aliens qualify for possible "at random" selection on the basis of their own allegations about their qualifications. Any substantive investigation would then be conducted only with respect to those selected under the "at random" process.

It is contemplated that each applicant would have to submit, as attachments to the application form, originals or copies of documents corroborating the various claims. This might include, for example, a copy of a high school diploma, a copy of a grade transcript from a college or university, a birth certificate to verify age, documents from previous employers attesting to claimed prior work experience, and certificates from training, vocational or technical schools attended.

Each application would have to be reviewed to compare the claims made by the alien on the application form with the supporting documents to ensure that the two were consistent. Questions relating to the authenticity of the documents or the truth of the statements made in them would only be pursued in the case of those selected for further processing by the "at random" selection system.

Fraud Concerns. In this connection, it should be noted that the potential for fraudulent claims would be high. The Department, at various times under various systems, has had experience with fraudulent claims to age, to educational qualification and to training and/or experience. Obviously, the incidence of such fraudulent claims likely would be higher in some areas of the world than in others, but it is a factor which cannot be ignored. Techniques exist for dealing with this sort of fraud, but they are labor-intensive, involving liaison with local authorities, and field investigations to verify claimed education or prior employment. It is difficult to quantify the costs of undertaking the additional work involved in these anti-fraud activities; whatever costs might be incurred would be wholly new costs in addition to those now incurred in administering the current system.

Procedures. There are also substantial questions about the procedures for filing petitions. The "at random" selection requirement would call for a centralized register of all applicants so that each may be assigned his or her individual registration number. Two collateral requirements seriously complicate the establishment of the petition filing and record-keeping system -- the requirement that the alien be outside the United States when the petition is filed and the prohibition against multiple filings by any individual alien. The prohibition on multiple filings would put a premium on centralized record-keeping in a computerized data base. Detecting multiple filings would be much more difficult in a decentralized system and virtually impossible in a manual record-keeping system. On the other hand, the requirement that the alien be physically outside the United States would argue for requiring that petitions be filed in person at a consular office abroad. Also, the consular officer abroad would be best qualified to examine supporting documents from local sources.

One way the Department could administer "at random" selection would be with a computer-based system. Each applicant who achieved the requisite 50 points would be assigned a number. Periodically, a computer programmed to generate numbers at random would generate a specified quantity of numbers. The applicants to whom the numbers had been assigned would be selected for processing during the applicable time period. The selections could be held at any operationally desirable interval -- monthly, quarterly, or annually.

Length of Validity. The text of the bill itself contains no provision which expressly would support limiting the validity of a selected immigrant petition, once filed, except for a provision relating to petitions of those who are successful in the "at random" selection process. On the other hand, there is language in the report on S. 2104 (Senate Report 100-290, page 18) from which it can be inferred that it was intended to limit the validity of any such petition to two years. It would be helpful to the Department if the Congress would clarify its intentions.

From an administrative standpoint, there are strong arguments for allowing the petitions to remain valid indefinitely. If the number of petitions in the initial filing period is as great as we anticipate, there would be enough qualified applicants among that group for many years' allocation of visa numbers. The logistical problems involved in purging the computerized data base, destroying or returning the applications and receiving another two to three million petitions in the next "open season" (often from the same aliens) would be onerous and burdensome.

Administratively, it would be easier to work through the initial intake of petitions until all had been issued or refused, before having another "open season", even if that took many years. On the other hand, under such a scheme, an alien whose age earned him or her ten points at the time of petition filing might well have attained an age which earned no points at all by the time of selection. Similarly, an occupation for which an alien earned points at the time of petition filing might have ceased to be such an occupation by the time of selection. Lastly, aliens too young to apply for the "open season" would have no way of applying once they are of age.

English Language. Another problem is the English language requirement. The bill provides merely that 20 points shall be awarded to an applicant who "has an understanding of the English language and the ability to communicate in such language." There is no further guidance on three important issues. The first is what elements of language qualification (spoken, written and reading) are to be tested. The second is the level of proficiency which is to be considered sufficient to earn points and whether that level varies or is otherwise connected with the occupation or profession to be pursued after immigration. The third is the method of testing. The Test of English as a Foreign Language (TOEFL) or some other standardized test with a minimum passing score is suggested, but the point ought to be clarified.

Other Aspects. As a technical matter there are other aspects of the proposed system which are noteworthy. A detailed examination of the point assessment system indicates the crucial importance of determinations of the Department of Labor. For example, while a holder of a Ph.D. degree who spoke

English and was under 36 could attain a score of 55 points on that basis, no such alien could score more than 55 points in the absence of a determination by the Labor Department regarding the alien's occupation under the Occupational Demand and Occupational Training and Experience factors. Professional-level occupations as well as skilled non-professional occupations would apparently be the subject of demand and shortage determinations.

In addition, it appears that an alien without a baccalaureate degree could not qualify at all unless his or her occupation was the subject of a demand and/or shortage determination. Such an alien could reach a score of 80 (thus qualifying for the initial selection) only if he or she were awarded the maximum possible points for both occupational demand/shortage and for training and experience in the occupation.

These observations point up two facts. First, the determinations made by the Department of Labor respecting occupations in demand and/or shortage and the value of training and/or experience in such occupations would be a vitally important factor in determining (1) how many aliens who lack baccalaureate degrees but have substantial training and/or experience in skilled occupations will qualify; (2) how many aliens will be able to earn the 80 or more points required to qualify for the initial selection. The question concerning the number of aliens who score 80 or more is particularly pertinent since 20 percent of the visa numbers available for the selected immigrant class would be set aside for aliens selected from that group. Under the bill as written, any portion of that 20 percent which could not be used because of a lack of qualified candidates would be lost, since there is no provision for reallocating them to the second selection (from among all who attained 50 points).

COSTS/FUNDING

Finally, Mr. Chairman, I should like to comment upon the questions of costs and funding. This bill would be more complex to administer than current legislation because of the Selected Immigrant preference and the temporary backlog reduction provisions. Increased complexity also means increased costs. In terms of total costs over a five-year period from FY 1991 through FY 1995 we estimate that the bill would cost approximately $530 million in 1989 dollars, above costs projected under the current law.

Our estimate is based on three main elements. The first is the cost of issuing the additional immigrant visas which would result from the bill. About $43 million would be required to process the estimated 220 thousand increase over five years in issued immigrant visas. Should the bill become law, the Department would be required to renovate, lease, build, or otherwise acquire additional space overseas in countries affected by the new law.

Second, the handling of petitions by applicants for the new Selected Immigrant preference would entail entirely new, additional costs. Using an estimate of 3.5 million applicants per open season (every other year), the resource implications over the five-year period would be $367 million. This figure includes, among other things, estimates for additional staff required to handle the expected flood of petitions, training of this staff to evaluate the petitions, and archiving relevant material.

Lastly, the bill would require extensive new automation efforts in Washington and at our posts abroad in order to register and keep track of the Selected Immigrants and to administer the backlog reduction provision. Our present automated immigrant visa application control system (IVACS) cannot easily be modified to accommodate procedures necessitated by the bill. New software, and probably hardware, would have to be developed, tested and distributed. The $120 million projected costs for automation over the five years would have to be front-end loaded -- about $60 million would be needed in advance of the first year of implementation to have automation in place in time to handle the increased workload.

This bill has no special funding mechanisms other than those in section 106 which stipulate that the Secretary of State would set fees for the filing of petitions for any and all immigrant categories "sufficient to cover administrative and other expenses incurred" in connection with the processing of immigrant visa petitions. It does not provide for funding the additional visa processing costs resulting from the proposed legislation.

The Department opposes the concept of funding a program through petition fees because of the fluctuating nature of receipts, uncertainties of current exchange rates and because it would represent an "earmarking" of funds which might be offset by a corresponding reduction in appropriated funds. In a similar vein, any reduction in the Department's accounts would unacceptably limit flexibility of the Secretary of State in managing resources within the appropriation. This would also mark an historic departure from the more traditional methods of government funding, by relying exclusively on a full-cost recovery methodology, without regard to the normal public interest and foreign policy considerations in setting fees.

This completes my formal statement, Mr. Chairman. I would be pleased to respond to any questions you or other members of the Subcommittee may have.

DEPARTMENT OF STATE
ASSISTANT SECRETARY FOR CONSULAR AFFAIRS
WASHINGTON

April 21, 1989

Dear Senator Kennedy:

I appreciated the opportunity to appear before the Subcommittee on Immigration and Refugee Affairs on March 3. In a recent letter you asked for responses to some questions the Subcommittee were unable to ask during that hearing. You will find the responses enclosed.

Please let me know if I can be of further assistance

Sincerely,

Joan M. Clark

Joan M. Clark

Enclosure:
Q's and A's for Subcommittee

The Honorable
Edward M. Kennedy,
United States Senate.

QUESTIONS FOR ASSISTANT SECRETARY CLARK

FROM SENATOR EDWARD M. KENNEDY

Question*

1) You have successfully grappled with the administration of two very unusual visa programs:

-- The NP-5 (Donnelly Visa) program, which we extended just last year.

-- The OP-1 program proposed by Congressman Berman, which was also enacted last year.

Both of these are probably similar to our proposed points system in that they will get many times more applicants than there are visas available.

Are there lessons which your bureau has learned in running these other programs which are applicable to the administration of our points system?

3) I think we all agree that the point system is likely to have many registrants, certainly more than the 50,000 numbers available each year. I imagine there would be a registration period and then random computer selection of 50,000 numbers from the pool of qualified registrants. State Department has done an excellent job of administering the NP-5 program with no additional resources. Have you given any thought to how you will administer this program if given the resources?

Answer Q's 1 and 3

o The use of a random selection computer program is the principal common factor between OP-1 and the "point system", but it is a minor issue when compared to the other operational difficulties associated with administering a point system.

---

* For questions 1 and 3, since they both relate to similar programs, we have prepared a combined answer.

- With OP-1 we were able to administer the entire selection process here in Washington with the assistance of the U.S. Post Office and contract personnel. The Washington processing was immensely facilitated by the fact that applications were not reviewed substantively prior to the random selection. The three million applications were not opened prior to running the program. Even still, they did have to conform to Post Office requirements regarding size and typing and each had to be individually examined to ensure that all were numbered.

- Under the point system, as proposed, there would be considerable up front processing required before the random selection process could be run. This will almost certainly require overseas post involvement. We have had extensive discussion with the Canadians and Australians regarding their point systems and have concluded that almost any such program will require subjective evaluations which can only be performed by officers in the applicant's country of registration.

- Especially with regard to skills categories, our experience with respect to present immigration skills designation clearly indicates that there will always be grey areas which will require officer involvement. Labor Department job descriptions cannot be precise enough to eliminate this problem.

- Even for those jobs where equivalency is not an issue there will be serious fraud concerns. Investigations are time-consuming and costly. In those countries with large populations of educated skilled professionals this registration, evaluation and investigation process could far outstrip the supply of potential visas.

- Once job qualifications were established, the same process of evaluation and investigation would apply to any claimed experience.

- Similar problems would be associated with the English and educational provisions of the law. Even if you relied soley on the TOEFL exam for English competency, administering the test to the millions of potential applicants would require a whole new apparatus. Educational equivalents are also not so straight forward as one might expect.

- The application and evaluation process at posts in countries with large populations will be staggering. Receiving, registering, storing, evaluating and answering inquiries at some posts will require physical and human resources far beyond the ability of posts to respond in a timely and legally mandated fashion.

- The Canadians and Australians do not have the demand that we are likely to have and are able to administratively manage their demand by adjusting point cutoff levels up or down so that demand and supply roughly equate.

- As the application/registration period may not be ongoing, it will be difficult to staff this function. Using contract personnel would be highly undesirable for fraud and security reasons and costs would be immense.

- No selection could begin until all posts had completed their processing reducing efficiency to the lowest common denominator.

- In essence the majority of the impact would be on overseas posts, with only the random selection being performed in Washington.

- One way to avoid massive overseas post involvement would be to permit the random selection process to be run prior to evaluating the applicants' substantive qualifications for the program. Applicants could self-evaluate their point total and mail their applications to a central address in Washington. Once the random selection was made the "winners" could be sent to posts abroad for processing. Obviously, there would be cases which upon evaluation and investigation would not qualify, but the post would only be processing those cases which already had passed through the random selection.

- We have learned other lessons from the OP-1 program which could apply to the proposed points system program as well. There are potential public and foreign relations problems associated with promoting a competition for immigration slots, then finding the "winners" ineligible under the public charge provision of our immigration law.
  - Under OP-1 we have found a large percentage of applicants from populous nations of South Asia (e.g., Bangladesh) and from the Middle East. Interest has also been high in certain African nations.
  - At least some will be unskilled workers with no family in the U.S. to find them jobs or otherwise assist their resettlement.
  - Our posts have warned us that turning down OP-1 "winners" from third world countries on public charge grounds while accepting educated and skilled "winners" from developed countries will cause major public and foreign relations problems.

- The overseas public is confused and skeptical about our rationale for conducting a lottery-type program in the stated interest of diversity.
  - In countries where the nonimmigrant refusal rate is high they do not understand why resettlement in the U.S. should suddenly be open to all and based on no criteria
  - They know of large pools of illegal aliens already in the U.S. and ask, "If you want diversity, why not take my brother-in-law who's been in the U.S. three years trying to legalize his status?"
  - They think our motive must be to find workers to do some dreadful job no Americans want to do, but they are willing to do almost anything.
  - Poor and uneducated people fell prey to arrangers who told them they would need assistance to assure success under OP-1. They may have paid a month's wages to the arrangers.
  - Foreign officials have expressed dismay over the unrealistic expectations aroused among their populations, and the political capital provided to opposition groups by the specter of thousands of citizens anxious to emigrate.
  - Under the points system the "brain drain" issue is also likely to arise.

Follow-on Question on S. 358
Question 2

Question 2:

I know the State Department is worried about the cost of administering the point system during times of a shrinking budget. Do you think the funding provisions we have put in the bill are adequate? There should be a way to charge applicants for the cost of registering for this system.

Answer

o We do not believe the funding provisions contained in S. 358 are adequate, particularly because there are no provisions for the start up costs, which will not be provided for up front by the assessment of application fees. As indicated in our testimony of March 3, there are considerable costs associated with staffing, space and automation which must be met even before the first petition is received. These costs can not wait for fee collections.

o In question three you mentioned that we had administered NP-5 with no additional resources. In fact, we did require additional funding which was drawn from the Department's Salary and Expense account, impacting negatively on other programs of the Department.

o We also remain opposed in general to funding consular operations abroad through petition fees due to the uncertainty of funds thus generated, problems with exchange rates and the likelihood of a reduction in appropriated funds based on estimated revenues.

o Fee setting is dictated by a complex procedure outlined in OMB Circular A-25 which takes into account elements of service provided by the U.S. government that are of primary benefit to the public served directly, the public in general, and the government. Using this formula, not all costs are charged back to the "customer". The next study of consular fees is scheduled for FY 1990. Through that study we will determine the appropriate level of fees for all consular activities. The current fee for processing an immigrant visa application abroad is $125.00 and the issuance fee is an additional $25.00.

Question

4) Under S. 358, the visa numbers for second preference will be increased. What effect will that increase have on the existing backlogs and which groups would benefit most from that change?

Answer

- Under S. 358, numbers available to the second family connection preference would increase, initially at least, from about 110,000 at present to roughly 160,000.
- The second preference waiting list, as of January 1989, totalled 402,221 applicants. Three countries alone (Mexico, Philippines and Dominican Republic) represent 46% or 184,000 of these cases; because of the per-country numerical limitation, these three states now have earlier second preference cut-off dates than other countries. All other countries represent about 218,000 of the second preference waiting list.
- The increase in numbers would permit visas to be made available within about two years to all applicants on the existing second preference waiting list for all foreign states except Mexico, Philippines and Dominican Republic. This is about one year sooner than under current law.
- It is probable, however, that a waiting list would continue for new petitions filed over that two-year period. We do not believe that the category is likely to become "current".
- For the three oversubscribed countries, the higher second preference share of visas under the per-country limitation would permit up to a few thousand more second preference issuances annually than is possible under current law, but the considerable applicant demand in those countries means that their current waiting list will not be processed for several years.
- It is important to note that were the total of immediate relative immigrants to increase over the current level, there would necessarily be a decline in the number of second preference visas subsequently available to family connection immigrants under the family connection level of 440,000. Since the per-country limitation under S. 358 is a percentage of the total family connection preference limit, an increase in immediate relative immigration would also decrease the second preference limitation for oversubscribed countries.

Background

Second Preference Waiting List:

The three foreign states listed below have the greatest number of second preference applicants.

Foreign State	Second Preference Total	Percent of Waiting List
MEXICO	76,522	19%
PHILIPPINES	71,497	18%
DOMINICAN REPUBLIC	35,999	9%
Other Countries	218,203	54%
Total	402,221	100%

Question

5) The overall cap on immigration is to be reconsidered every three years. If there is to be a change in the overall level, the Department of State (and INS) will have approximately one month to prepare for the change. Is this enough time for you to prepare for the change?

Answer

- One month is enough time for us to revise numerical control data, but if the changes required revised staffing, as they would if the numerical changes were significant, considerably greater lead time would be required. Assuming additional personnel could be hired, it would take from 12 to 18 months to bring persons on board and provide them with appropriate training, including language where necessary.

Question

6) Selected immigrants are to be chosen in a random order established by the State Department. What are the various possible systems as seen by the Department? In addition, which option would you choose and why?

Answer

- A first come first served selection cannot be fairly administered at multiple posts worldwide in different time zones.
- Any registration system which requires application fees will be extremely difficult to administer out of Washington.
- Whatever system is chosen, we need at least six months from the random selection date prior to the first visa issuance.
- One application per Principal Applicant.
- We need sufficient administrative leeway to allow us to set certain criteria such as letter size, typed addresses, photos, etc. This would also include a random selection process which is reasonable. For example, the OP-1 process numbered some mail that is ineligible because it lacks a return address or is handwritten (slipped past the electronic sorter). If one of these pieces of mail is a "winner" it will be disqualified subsequent to the random selection. A purist would require that we open all the three million pieces of mail and determine eligibility prior to making the random selection. Such a process would have extended the processing time of OP-1 at least three months and greatly increased costs. It is important that the Department only be held to a "reasonable standard."
- The most attractive option is one that can be administered from Washington. This would require that the point criteria be simple enough to administer to obviate the need for overseas post involvement and allow "scoring" to be conducted in Washington.
- If point evaluation were simple enough without ambiguities, it might even be possible to allow the applicants to self-evaluate their applications. Under such an approach, the random selection could be made without first having to score each application. Erroneous scores would not be detected until the application was sent to the post for processing, but could possibly be less costly than having to score the millions of applications and only select a few "winners."

QUESTIONS FROM SENATOR PAUL SIMON

Question

1. On page 3 of your written testimony, you estimate that after eight years of the S. 358 reforms, family visas would be just 40% of the number that are available today. I am very concerned about the reduction of visas for family reunification. How did you arrive at this assessment?

Answer

- Under the Family Connection Immigrant Level (set by S. 358 at 440,000), after the current level of immediate relative immigrants are subtracted, the family connection preference annual limitation would be about the equivalent of the 216,000 visas available to the family connection preferences under the law at present.
- If immediate relative immigration remains at the current level in future years, the family connection preference limitation would not change.
- Between 1979 and 1987 immediate relative immigration did increase at an average rate of 6.2% annually. For the last couple of years immediate relative immigration has remained static.
- We believe it is reasonable to project that the rate of immediate relative immigration will, in fact, again increase -- if not in FY 1989, then by FY 1990 or FY 1991. Large numbers of aliens who acquire permanent residence under the IRCA will eventually become eligible for naturalization. There is no evidence to support a conclusion that the recent plateau in immediate relatives is anything more than an aberration, and that an annual increase consistent with the 6.2% rate noted earlier will not recur.
- Were such increases to resume, immediate relative immigration would grow by about 133,000 in eight years.
- The family connection preference limit, determined by subtracting immediate relatives from the family connection level of 440,000, could decrease from about 216,000 to about 83,000 within eight years, assuming no change in the 440,000 overall level.
- We cannot predict and are not predicting that such a drastic decrease will necessarily occur, but we are offering the example as one very possible result of S. 358 on family connection preference visa availability.

Question

2. On page 10 of your written testimony, you state that "Backlogs in second preference are causing distress to affected families. Either they remain separated or they look for a route to illegally enter the U.S." Under S. 358, how long would the waits be for 2nd and 5th preferences from Mexico and Asia?

Answer

Second Preference:

- Under S. 358, the second preference would initially have available about 50,000 more visas worldwide than under current law.
    - If the level of immediate relative immigration holds constant, this increased limitation would be sustained.
- Were the 6.2% annual increase in immediate relatives apparent between 1970 and 1987 to apply through future years, the family connection preference limits would necessarily be reduced in compensation, under the family connection level.
    - Were that level to remain at 440,000, after four years of such immediate relative increases the second preference limitation would be back to its limitation under current law.
    - Subsequent immediate relative increases would see it reduced further.
- S. 358 restricts second preference entitlement to eliminate unmarried sons and daughters 26 years of age and above.
    - This should reduce new cases by about 25%, but petitions for the spouses and children of legalization beneficiaries and of Selected Immigrants for whom there would be no derivative status should more than compensate for this reduction.
    - Furthermore, all applicants for whom petitions have been filed by the date of enactment are protected by a savings clause.

- Mexico Second Preference:
  - In May 1989, Mexico second preference petitions filed prior to May 1, 1979 are entitled to visa issuance.
  - There are some 76,000 applicants already on the waiting list.
  - Since about three-quarters of legalization beneficiaries are from Mexico, there is certain to be a significant number of new petitions from that class in coming years.
  - Even with a few thousand additional visas annually under S. 358 the waiting period is unlikely to improve significantly.
  - Furthermore, an increase in immediate relatives could actually reduce Mexico second preference issuance below current levels.
- Philippines Second Preference:
  - In May 1989 the visa availability cut-off date for Philippines is April 8, 1982.
  - There are about 71,000 applicants on the waiting list.
  - Even with a few thousand additional numbers annually, visa availability is unlikely to improve significantly, and an increase in immediate relatives could actually reduce issuances within a few years.
- Other Foreign States in Asia:
  - For May 1989, the worldwide second preference cut-off date of October 8, 1987 is applicable to all of the oversubscribed states in Asia except for Philippines.
  - S. 358 would at least initially increase issuances in this category to such countries.
  - Even with such increase, the category would likely remain oversubscribed, although with a reduced waiting period.
  - An increase in immediate relatives over time would substantially reduce the preference limitation and lengthen the waiting period again, however.

Fifth Preference:

- Under S. 358 the fifth preference would receive substantially reduced allocations.
  - Only about one-third of the 70,000 numbers now available worldwide would be provided under the regular allocation scheme.
  - Any increase in immediate relatives would further reduce allocations.
- S. 358 restricts new entitlement in the preference to never married siblings, less than ten percent of current cases, but the savings clause for petitions already filed would preserve the more than one million applicant waiting list.
- As a result, the sibling preference cut-off date movement would have to slow considerably even compared to the current creeping advances, and the wait for a visa would increase substantially.
- Mexico Sibling Preference:
  - For May 1989, the cut-off date is May 1, 1978.
  - The waiting list is currently about 148,000.
  - Regular allocations would be only about one-third of the current level of 4,800 visas a year.
  - Increased immediate relatives would force a further reduction in the regular preference limit.
  - Mexico would also receive an estimated 20% of the 30,000 sibling waiting list reduction visas provided for each of three years by S. 358. This would permit up to 6,000 additional visas in those years. For three years, total Mexico sibling preference visas may exceed current levels, but still the size of the waiting list indicates that long delays in visa issuance will continue to be the rule.
- Philippines Sibling Preference:
  - The May 1989 cut-off date is January 27, 1977.
  - The waiting list totals 235,000.

- Regular allocations would be one-third of the current 4,800.

- The three year waiting list reduction provision would add approximately another 24,000 Philippines sibling visas per year for the three years of that program. This would reduce the wait in the short term, but once the program ended, little further advance in the cut-off date would be likely.

- Increased immediate relatives would force a further reduction in the regular preference limit.

o Other Foreign States in Asia:

- For the oversubscribed Korea and China-mainland born chargeabilities, a mid-1981 cut-off date now applies. For India, the cut-off is January 1982. For other countries the date is June 22, 1982.

- In general, such states are likely to receive a third or less sibling preference visas under S. 358 than under current law.

- Little movement in their cut-off dates would be possible, and the wait for a visa would grow indefinitely.

- They would also not benefit from the waiting list reduction provision; since the Philippines and Mexico have the earliest sibling preference cut-off dates, these two countries can be expected to make full use of numbers under this program.

Question

3. My legislation increases second preference visas to 200,000 annually and fifth preference visas to 84,000 annually withou adding the restrictions of S. 358. I would like your views of how my bill's impact on waiting lists and visa availability differs from that of S. 358.

Answer

- S. 448 would increase second preference issuances by about 100,000 annually over the current level.
  - This increase is about twice that of S. 358, and is not subject to possible reduction following immediate relative increases.

- At the current pace of second preference petition filing, S. 448 could eliminate the second preference waiting list within two years for all countries except Dominican Republic, Mexico and Philippines; even these countries, while remaining heavily oversubscribed, would benefit from some increase in their second preference visa issuance under the per-country limitation. Under S. 358, while there might be a shortening of the second preference waiting period, it is unlikely that the waiting period would be eliminated entirely.

- The reduction in the residence period for naturalization in S. 448 from five to three years would also mean that spouses, sons and daughters of alien residents could become entitled to move more rapidly than at present from second preference to immediate relative status.

o Note on First Preference:

- Both S. 348 and S. 448 reduce the allotment of numbers for first preference in conjunction with the increase in visas for second preference. On the worldwide level, the first preference reduction has no practical impact since most first preference numbers now are unused in that cateogry and fall to second preference.

- Within two oversubscribed countries, however, there would be an important result. Both Mexico and the Philippines now use about 4,000 first preference numbers annually; for Philippines the demand is actually much higher, and the category already has a waiting list of 17,000.

- To the extent that the reduced first preference percentage would be applied under the per-country limit to oversubscribed countries, both Mexico and the Philippines would see an immediate reduction in first preference visa. (From about 4,000 to about 2,000 under S. 358, and to 880 under S. 448). Both bills would seriously backlog first preference for those two countries as a result.

o S. 448 adds 30,000 more sibling preference numbers annually to the current approximately 70,000 now available to this category.

- This compares with a two-thirds cut under S. 358, plus a three year only waiting list reduction of 30,000 per year.

- The S. 358 waiting list reduction provision would benefit only two countries, while the extra numbers in S. 448 would be available to applicants worldwide.

- In view of the more than one million applicants on the sibling preference waiting list, this category would remain oversubscribed, but S. 448 would permit a slightly faster advance in the cut-off date than at present.

Question

4. You have raised three objections to the granting of 20 points for English proficiency for independent visas. On page 15 of your testimony you state, "English has become the principal world language of higher education." I agree that learning English and higher education are associated factors. Unfortunately, in U.S. higher education we do not put the same emphasis on learning a second language. Would it be administratively easier to just give points for higher education rather than for both English proficiency and higher education since the two factors are so closely associated?

Answer

- Yes.

United States Department of State

Washington, D.C. 20520

SECOND AND FIFTH PREFERENCE WAITING LIST TOTALS

In January of each year, consular posts worldwide report to the Department of State figures of applicants on the immigrant visa waiting list. Listed below are the totals of immigrant applicants on the waiting list in the second and fifth preferences as of January 1989.

Second Preference:

Waiting list applicants in the second preference total 402,221. The April 1989 cut-off date for second preference is September 8, 1987 except for the three foreign states and one dependent area listed below which have earlier cut-off dates because of their very heavy applicant demand. These four countries together represent about 47% of the entire second preference waiting list.

	SECOND PREFERENCE TOTAL	PERCENT OF WAITING LIST	VISA AVAILABILITY CUT-OFF DATE FOR APRIL 1989
Mexico	76,522	19%	September 15, 1978
Philippines	71,497	18%	March 1, 1982
Dominican Republic	35,999	9%	May 8, 1986
Hong Kong	4,511	1%	August 1, 1986
All Other Countries	213,692	53%	September 8, 1987
Total	402,221	100%	

Fifth Preference:

Waiting list applicants in the fifth preference total 1,469,231. The fifth preference cut-off date for April 1989 is June 15, 1982 except for the five foreign states and one dependent area listed below which have earlier cut-off dates. These countries together represent about 57% of the total fifth preference waiting list.

	FIFTH PREFERENCE TOTAL	PERCENT OF WAITING LIST	VISA AVAILABILITY CUT-OFF DATE FOR APRIL 1989
Philippines	235,675	16%	January 22, 1977
India	185,564	13%	January 15, 1982
Mexico	147,914	10%	March 1, 1978
Korea	118,228	8%	July 1, 1981
China-mainland born	111,738	7%	September 1, 1981
Hong Kong	39,006	3%	November 7, 1979
All other countries	631,106	43%	June 15, 1982
Total	1,469,231	100%	

Waiting List By Country:

The second and fifth preference waiting list totals by foreign state as of January 1989 are listed below:

Foreign State	Second Preference Waiting List Totals	Fifth Preference Waiting List Totals
Afghanistan	445	500
Albania	1	12
Algeria	41	61
Angola	56	189
Antigua & Barbuda	735	1,492
Argentina	513	2,747
Australia	88	151
Austria	62	189
Bahamas	293	279
Bahrain	19	143
Bangladesh	651	5,997
Barbados	1,004	2,397
Belgium	44	151
Belize	1,602	2,193
Benin	3	5
Bhutan	-	2
Bolivia	629	2,381
Botswana	2	5
Brazil	602	1,417
Brunei	5	71
Bulgaria	46	110
Burkina Faso	2	-
Burma	844	6,604
Burundi	-	15
Cambodia	614	2,775
Cameroon	5	6
Canada	1,516	9,020
Cape Verde	1,431	1,164
Central African Republic	1	3
Chad	2	1
Chile	971	4,190
China-mainland born	12,180	111,738
Taiwan born	8,325	82,925
Colombia	6,165	14,328
Congo	7	2
Costa Rica	1,837	2,211
Cote d'Ivoire	25	42
Cuba	2,376	13,086
Cyprus	90	556
Czechoslovakia	66	293
Denmark	51	153
Djibouti	2	2
Dominica	658	1,558
Dominican Republic	35,999	15,363

Foreign State	Second Preference Waiting List Totals	Fifth Preference Waiting List Totals
Ecuador	2,682	8,325
Egypt	1,756	13,519
El Salvador	8,705	13,200
Equatorial Guinea	-	3
Estonia	-	4
Ethiopia	982	420
Fiji	426	8,394
Finland	35	81
France	320	1,498
French Guiana	1	7
French Polynesia	2	30
Guadeloupe	30	80
Martinique	17	45
New Caledonia	1	6
Gabon	1	-
Gambia	11	3
German Democratic Republic	16	158
Germany, Federal Republic of	512	2,023
Ghana	739	574
Great Britain & No. Ireland	2,363	14,309
Anguilla	32	190
Bermuda	17	208
British Virgin Islands	65	220
Cayman Islands	10	37
Falkland Islands	-	1
Gibraltar	-	2
Hong Kong	4,511	39,006
Montserrat	72	336
Turks & Caicos Islands	8	37
Greece	650	7,207
Grenada	685	1,516
Guatemala	3,564	10,726
Guinea	2	5
Guinea Bissau	8	3
Guyana	7,209	27,628
Haiti	11,706	10,947
Honduras	4,685	5,983
Hungary	90	383
Iceland	11	49
India	11,307	185,564
Indonesia	472	3,394
Iran	5,380	17,138
Iraq	863	6,043
Ireland	314	2,204
Israel	770	3,705
Italy	384	6,281
Jamaica	18,484	30,059
Japan	607	1,381
Jordan	1,882	7,676

Foreign State	Second Preference Waiting List Totals	Fifth Preference Waiting List Totals
Kenya	319	3,986
Kiribati	-	1
Korea	14,163	118,228
Kuwait	426	1,536
Laos	286	1,187
Latvia	4	14
Lebanon	3,190	11,998
Lesotho	2	3
Liberia	537	267
Libya	24	182
Liechtenstein	-	-
Lithuania	1	21
Luxembourg	-	9
Madagascar	3	36
Malawi	14	193
Malaysia	405	3,827
Mali	3	1
Malta	50	384
Mauritania	1	8
Mauritius	14	192
Mexico	76,522	147,914
Micronesia, Federated States of	-	1
Monaco	-	3
Morocco	170	560
Mozambique	29	219
Namibia	-	10
Nauru	-	6
Nepal	39	250
Netherlands	75	462
Aruba	31	122
Netherlands Antilles	43	172
New Zealand	70	359
Nicaragua	3,510	7,827
Niger	1	4
Nigeria	1,932	924
Norway	39	141
Oman	7	26
Pacific Islands, Trust Territory of the	27	30
Pakistan	6,369	31,108
Panama	871	2,581
Papua New Guinea	-	5
Paraguay	90	381
Peru	3,421	12,355
Philippines	71,497	235,675
Poland	5,436	3,894
Portugal	1,325	18,424
Macau	137	3,419

Foreign State	Second Preference Waiting List Totals	Fifth Preference Waiting List Totals
Qatar	16	115
Romania	398	2,245
Rwanda	-	3
San Marino	-	1
Sao Tome and Principe	5	5
Saudi Arabia	92	745
Senegal	11	106
Seychelles	5	131
Sierra Leone	256	174
Singapore	204	1,241
Solomon Islands	-	13
Somalia	57	86
South Africa	267	2,685
Spain	346	1,527
Sri Lanka	241	2,675
St. Kitts and Nevis	756	1,311
St. Lucia	505	1,207
St. Vincent & the Grenadines	482	1,118
Sudan	46	245
Suriname	74	182
Swaziland	1	5
Sweden	156	307
Switzerland	60	246
Syria	1,204	6,561
Tanzania	142	2,058
Thailand	1,986	6,647
Togo	11	4
Tonga	303	2,565
Trinidad & Tobago	2,235	3,841
Tunisia	17	89
Turkey	395	1,785
Tuvalu	2	-
Uganda	120	1,743
USSR	303	513
United Arab Emirates	20	651
Uruguay	219	1,184
Vanuatu	-	4
Venezuela	644	1,242
Vietnam	25,598	90,997
Western Samoa	345	732
Yemen (Aden)	31	102
Yemen (Sanaa)	208	233
Yugoslavia	801	4,665
Zaire	27	48
Zambia	83	688
Zimbabwe	71	426
GRAND TOTAL	402,221	1,469,231

NOTE: It should by no means be assumed that once an applicant is registered on the waiting list, the registration is then continually included in the waiting list totals unless and until a visa is issued. In fact, cases which are identified as unlikely to result in visa issuance are excluded from the waiting list count. If, for example, a consular post receives no response from an applicant to whom visa application instructions are sent when the movement of the visa availability cut-off date indicates that a visa may become available within a reasonable time frame, the case is considered "inactive" under the consular procedures and is no longer included in waiting list totals.

The waiting list is not simply a count of every case on file, but only of those on which visa action is considered a reasonable possibility. The consular procedures mandate a regular culling of visa waiting list cases to remove from the count those unlikely to see further action, so that waiting list totals are not unreasonably inflated.

Senator KENNEDY. Mr. Lawson.

STATEMENT OF EUGENE K. LAWSON

Mr. LAWSON. Thank you, Mr. Chairman, Senator Simpson, and Senator Simon, and I welcome the opportunity to appear before you today to present the Department of Labor's views on Senate bill 358, the Immigration Act of 1989.

My Department has been giving a great deal of thought to the American labor market that we are likely to see as the 20th century draws to a close and to the role of immigration in it. As a result, we fully support the ongoing comprehensive review of the current system for admitting immigrants into the United States.

The Department of Labor views a generous legal immigration policy as compatible both with the broad interests of U.S. workers and with overall national goals. While immigration will clearly play a vital role in supplying new workers to our economy in the upcoming years, changes in immigration policy should not be allowed to deter us from the vital objective of fully developing our own domestic work force.

In our view, this need for balance requires that discussions about various approaches to selecting immigrants be particularly thoughtful. Senate bill 358 creates a framework and sets some very important parameters for this discussion.

We welcome your early initiative, Senator Kennedy, Senator Simpson, and Senator Simon, on Senate bill 448, and we welcome especially a key provision in your bill that recognizes that we may not have all the answers about immigration and mandates annual reports on and periodic reevaluations of our overall immigration system. Such flexibility, in our view, is a critical prerequisite to a rational immigration policy, and my Department pledges to be an active and constructive participant in this process.

Let me now turn to our views about some of the bill's specific provisions. First, family immigration. My Department strongly supports policies which affirm unequivocally our national commitment to the humanitarian principle of family reunification in our immigration system.

A family-reunification-based immigration policy recognizes that families play a vital role as buffers and mediators between the individual migrant and the host environment. Families often are the facilitators of an immigrant's social, economic, and gradually political integration, and they enhance the immigrant's ability to make a successful transition to the new community and society.

Finally, families provide an important private social safety net, crucial labor market information, child care, and a host of other services which have been shown to have a direct relationship to a household's economic success.

We believe that Senate bill 358 is in fundamental accord with this view of the critical role that families play in immigration, and we applaud the bill's sponsors for separating family immigrants from independent immigrants. We particularly note the bill's efforts to increase the speed in which lawful permanent residents can be joined by their immediate families.

However, demand for such visas can be expected to increase at an even faster rate as those aliens legalized under the various IRCA legalization procedures gain permanent resident status.

Next, I would like to say a few words about independent immigration. In our view, Senate bill 358 is basically on the right track with respect to independent immigration. Its attention to such human capital attributes as education, proficiency in English, training, and skills is highly desirable and in line with projected future American labor market needs. In fact, our own research indicates that these are precisely the attributes that best predict an immigrant's successful economic incorporation.

Our main advice in this regard, then, is, one, that the independent immigrant numbers should not be so large as to become a disincentive for the United States to set and aggressively pursue the goals of providing education and training for our own citizens; and, two, that the precise formula for choosing selected immigrants and the points allocated to each selection criteria be carefully thought out so as to avoid undue administrative costs and regulatory burdens.

Let me focus, if I may, Mr. Chairman, for 1 minute on one key set of assumptions that underlie the selection of the fifth independent preference category; that is, how one might relate immigration policy to the labor shortages that we hear so much about.

In our view, Senate bill 358 overestimates the Government's ability to target immigrants to needed labor market adjustments. First, trying to anticipate labor demand is never an easy task. Second, trying to respond to it in a timely fashion through immigration is even more of a problem.

Trying to resolve this latter problem satisfactorily would require not only the resolution of extremely complex conceptual, analytical, and technical questions, but also an extraordinary degree of constant fine-tuning of the projection model and a regulatory response time which might be quite unrealistic.

Third, the size and complexity of the U.S. labor market, with its myriad of distinct regional and local components, may not lend itself particularly well to such long-term planning.

My Department's overall view on immigrant selection systems, then, is that the increased emphasis on labor market immigration would require additional substantial resources for the development of a system which can best balance employer and worker interests in the context of the overall national interest.

We would like to see, one, modest initial increases in current employment-related immigration admissions, and I would add, parenthetically, that the levels envisaged by Senate bill 358 are at the upper limits of what we consider reasonable at this time; two, greater emphasis on generic human capital characteristics rather than specific and, thus, fluctuating skill shortfalls; three, flexibility which comes from frequent, regular reviews of numbers, but also of the overall philosophy and selection formula; four, simplicity as a means of controlling administrative costs and reducing legal challenges; and, five, provisions for relatives of U.S. citizens and permanent residents who qualify to receive priority among labor market immigrants.

In a final matter of traditional Department of Labor concern, we support the proposed amendments to the labor certification process. My Department believes that the use of labor market information in making labor certification determinations could prove significantly less costly and time consuming than current labor certification procedures without harming our ability to protect the wages and job opportunities of U.S. workers.

We urge, however, reconsideration of whether second and some third independent preference category immigrants should be excluded from this crucial labor market test. In our view, the various amendments to the labor certification process may prove adequate to address the shortcomings of the present system and are the more reasonable course of action at this time.

Mr. Chairman, in conclusion, my Department believes that labor market conditions should always be considered when discussing significant immigration changes. And as a result, we welcome and we encourage the emerging view of legal immigration as a part of this Nation's reservoir of possible policy responses to the issue of skill shortfalls and mismatches.

But at the same time, we strongly caution against pointing to immigration as the principal mechanism for addressing them, for, in our view, immigration's most appropriate labor market role is to facilitate and supplement policies seeking to improve opportunities for U.S. workers within the framework of an overall human resources development strategy. Thus, we can support moderate increases in employment-related immigration as long as they are coupled with continued strong protections for U.S. workers.

This concludes my formal statement, Mr. Chairman, and my staff and I will be available to work with you and your staff on all issues of interest to my Department, and I will be pleased to answer any questions you have.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Lawson follows:]

STATEMENT OF THE HONORABLE EUGENE K. LAWSON
DEPUTY UNDER SECRETARY
BUREAU OF INTERNATIONAL LABOR AFFAIRS
U.S. DEPARTMENT OF LABOR
BEFORE THE
SENATE SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS
JUDICIARY COMMITTEE
UNITED STATES SENATE

March 3, 1989

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before you today to present the Department of Labor's views on S. 358, the "Immigration Act of 1989." The Department of Labor fully supports the ongoing comprehensive review of the current system for admitting immigrants into the United States. In fact, my Department has been giving a great deal of thought to the American labor market we are likely to see as the twentieth century draws to a close and to the role of immigration in it.

In 1986, my Department commissioned a comprehensive review of the U.S. labor market. The results of that review have appeared in a widely-cited report entitled Workforce 2000. The Report's main findings and subsequent projections by my Department's Bureau of Labor Statistics point to slower U.S. labor force growth for the balance of this century with much of the net increase in the labor force consisting of minorities and immigrants. In fact, at current immigration rates, immigrants are expected to account for more than 20 percent of the net increase in workers by the year 2000.

These projections further suggest that many of the jobs of the future will require levels of education and skills which many among our future workers are not likely to possess--unless our educational and training institutions take the necessary steps to develop and implement far-reaching human resource development policies designed to meet the employment goals of the future.

The Department of Labor sees in these scenarios a unique opportunity to advance its own fundamental mission of fostering and promoting the interests of U.S. workers. In this context, my Department views a generous legal immigration policy as compatible both with the broad interests of U.S. workers and with overall national goals. While immigration will clearly play a vital role in supplying new workers to our economy in the upcoming years, changes in immigration policy should not be allowed to deter us from the vital objective of fully developing our domestic workforce. As Secretary Dole pointed out in her swearing-in ceremony, "in a tight labor market, for American businesses to compete successfully abroad, they must first compete successfully for workers at home."

The Department of Labor affirms the verdict of the Select Commission on Immigration and Refugee Policy that, with regard to immigration, the U.S. has done "well by doing good." As a result, we continue to support an immigration policy which declares without equivocation the importance of the family in immigration. We do not find it inconsistent that labor market considerations should receive enhanced attention in the formulation of U.S. immigration policy--as long as this does not interfere with the reunification of immediate family members. Furthermore, we feel that any enhanced labor-market-based component of U.S. immigration policy must be coherent, deliberate, and responsive to changing economic conditions and should not interfere unduly with the labor market adjustments which characterize dynamic economies and allow a nation to compete successfully in the global economy.

It is these concerns which led the Department of Labor to convene a Task Force last year to study legal immigration. Our comprehensive review of the issue, and the subsequent exhaustive review of the labor market effects of immigration mandated by the Immigration Reform and Control Act of 1986 (IRCA), put me in a position to offer my Department's willingness to cooperate with and assist Congress in its current review of immigration policy.

We appreciate the motivation behind S. 358 and are sympathetic to the objective of making certain components of overall immigration more sensitive to U.S. labor market needs. Yet, we do not agree with all provisions of the Bill as it attempts to achieve this greater labor market orientation and strongly believe that great care must be given to the configuration of the model by which future independent immigrants to the U.S. might be selected. For instance, we need a better understanding of, and information on, labor "shortfalls" and "mismatches" before we can advance an informed opinion on the feasibility and most appropriate configuration of such a mechanism. Toward this objective, we have made a technical analysis of the Canadian immigrant-selection system. That analysis reinforces the view that the issue of defining and measuring labor "shortages," and the overall approach to selecting labor-market-bound immigrants, requires thoughtful treatment. We pledge to be active and constructive participants in this process and strongly support the periodic review provisions contained in the proposed legislation.

Family Immigration

Under S. 358, immediate relatives of U.S. citizens would continue to be admitted without numerical limits. However, the Bill would make significant changes to numerically restricted immigration and the current six-class preference system.

S. 358 would establish separate preference systems for family connection and independent immigrants. For the first time in U.S. history, overall immigration would be capped--at 590,000 visas. Under this cap, 440,000 visas would be allocated to family connection immigrants and 150,000 to independent immigrants. Of the latter figure, 30,000 visas would go for backlogged current 5th preference applicants (i.e., brothers and sisters of U.S. citizens [USCs]) during each of FYs 1991-93.

The proposed Bill would also change the current family reunification system. It would limit annual family connection immigrant admissions to 440,000 minus the number of immediate (still exempt) relatives admitted in the previous fiscal year, plus (beginning in 1992) any unused independent immigrant visas from the previous fiscal year. Based on FY 1987 immigrant admissions and with no falldown from the independent immigrant preferences, immigration under the new relative preferences would be set at approximately 221,000--slightly greater than the current statutory restriction of 216,000. However, the numbers available for relative preferences would decrease if immigration of exempt immediate relatives continues its overall upward trend. In fact, these numbers are likely to disappear completely as soon as the first wave of aliens legalized under IRCA become eligible for citizenship--and hence for petitioning for their immediate family members.

S. 358 would admit family connection immigrants under a preference system containing four classes similar to the current family connection preferences but distributed in accordance with a formula which emphasizes the reunification of immediate relatives of LPRs over that of more distant relatives of USCs. However, two groups of aliens--unmarried sons and daughters of LPRs over 26 years of age, and married or previously married brothers and sisters of adult USCs--would no longer be eligible for admission as family connection immigrants. The Bill would, however, grandfather in aliens in these categories whose petitions had been filed under the current system before enactment and had been subsequently approved.

My Department supports the establishment of separate preference systems for family and independent immigrants so as to avoid the perception that family immigrants compete with independent immigrants for visas.

The Department of Labor strongly supports policies which affirm unequivocally our national commitment to the humanitarian principle of family reunification in our immigration system. A family reunification-based immigration policy recognizes that families serve as buffers and mediators between the individual immigrant and the host environment. Families can be the facilitators of an immigrant's social, economic and, gradually, political integration and enhance the immigrant's ability to make a successful transition to the new community and society. A successful transition, in turn, becomes a solid foundation for the immigrants' children who will be the U.S. citizen-workers of the next generation.

Furthermore, families provide an important private social safety net, critical childcare, and a host of other services which have been shown to have a direct relationship to a household's economic status among immigrant and disadvantaged groups. Equally important, however, may be the information about the labor market which families provide. Research shows that success in the labor market is often linked directly to the social and institutional environment in which a worker functions. Information, and the access mechanisms which social and family linkages provide, are essential to an immigrant's successful incorporation into the host economy. Research has shown conclusively that the availability of these and similar services are among the strongest predictors of one's successful economic adaptation.

For these reasons, the Department of Labor strongly supports continuing to admit immediate relatives of USCs outside of numerical limits. We also support measures designed to allow the more expeditious reunification of close relatives of LPRs, including more visas for second preference immediate relatives.

Independent Immigration

S. 358 would increase annual independent immigration from its current 54,000 initially to 120,000 and beginning with FY 1994, to 150,000. However, it would add to that figure unused family connection visas from the previous fiscal year which, theoretically at least, could add a small number to independent immigration during the law's early years.

Independent immigrants under this Bill would be admitted under a five-class preference system: (1) special immigrants; (2) members of the professions holding advanced degrees or aliens of exceptional ability in the sciences, arts, or business; (3) trained or experienced skilled workers, unskilled workers, and professionals with baccalaureate degrees; (4) investors; and (5) "selected" (or point system) immigrants.

First preference independent immigrants would be certain special immigrants (such as ministers of religion, certain alien employees or retired employees of the U.S. government abroad, and certain foreign medical graduates) who are currently admitted outside the worldwide numerical ceiling on preference admissions. Annual admissions would be limited to 7,500 persons (5% of

150,000). In recent years, an average of 3,300 such special immigrants have been admitted annually.

Second preference independent immigrant admissions would be 23 percent of all independent immigrants (34,500)--an increase of 7,500 over current third preference. S. 358 expands this category beyond current law by including persons of exceptional ability in business, a category that may create definitional and, consequently, regulatory difficulties. At the same time, however, the Bill wisely tightens this category by specifying that possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or a license to practice, or certification for a particular profession or occupation is not "...by itself ...sufficient evidence of such exceptional ability."

Immigrants admitted under this category would be required to have a prior job offer by a U.S. employer but, unlike current third preference immigrants, would need to meet no additional labor market tests. Finally, the Attorney General would be empowered to waive even the job offer requirement if he/she deemed it to be in the national interest--a provision we believe should be administered by the Secretary of Labor.

The third preference is also set at 23 percent of total independent immigration (34,000). This preference has a peculiar and troubling "catch-all" character in that it lumps together, without any guidance as to order of priority, workers capable of performing skilled labor that requires at least two years of training or experience with unskilled workers who are in short supply and members of the professions holding bachelors' degrees! Admissions in this preference class would also increase by 7,500 over those available under current sixth preference. The existing sixth preference, however, does not include baccalaureate holders and still registers a 3-year backlog in visa availability.. In conformance with current practice, admissions under the proposed preference would apparently continue to require the favorable outcome of a labor certification process.

Fourth preference independent immigrants would be made up of those investing at least $1,000,000 (an amount subject to increase at the Administration's discretion) in an enterprise that will benefit the U.S. economy and create full-time employment for at least 10 USCs or LPRs other than the spouse and children of such immigrants. Annual admissions in this category would be limited to 4 percent of independent immigrants, or 5,000, whichever is greater. Investors would be granted only a two-year conditional LPR status to guard against system-abuse and fraudulent entries. The conditionality would be removed upon evidence of continued fulfillment of the investment provisions. Under current law, investors are admissible as nonpreference immigrants. However, due to the unavailability of visa numbers for that category, none have been admitted since 1978.

The fifth and final independent immigrant category is that of selected immigrants. Visas not required by the first four independent preferences (a minimum of 67,500) would be available to aliens who achieve at least 50 points out of a maximum of 95 on the basis of the following criteria: Age (up to 10 points); Education (up to 25 points); English language ability (20 points); Occupation (up to 20 points, allocated on the basis of expected demand and present/projected shortages); and Occupational Training and Experience in the occupational criterion described above (up to 20 points). Twenty percent of the visas for this preference category would be issued randomly to qualified immigrants who score at least 80 points, with the remaining 80 percent issued at random to qualifying immigrants scoring at least 50 points.

In effect, then, large numbers of visa applicants could qualify for this preference category on the basis of appropriate scores in the age, education (a baccalaureate degree or its equivalent would give an applicant 20 points), and language categories. Since large numbers of visa applicants could qualify for admission without regard to labor market considerations, a labor certification test may be appropriate for this category.

Discussion

The Department of Labor supports a tilt toward more independent immigration. In achieving such a tilt, however, adopted changes should neither prejudge future labor market events on the basis of inadequate information, nor lessen the protections provided by current law for the wages, working conditions and job opportunities of U.S. workers.

The Department of Labor believes that immigration's most appropriate labor market role is to facilitate and supplement policies seeking to improve opportunities for U.S. workers within the framework of an overall human resources development strategy.

The proposed Bill's increased attention to such human capital attributes as education, training, and skills in independent immigrants is highly desirable and in line with projected future U.S. labor market needs. My Department's projections of such needs indicate that most new jobs in the U.S. economy will demand more education and higher levels of language, math and reasoning skills than have been necessary in the past. Asking immigrants who are chosen explicitly for their ability to contribute to the U.S. economy to meet these requirements is appropriate--as long as policy remains sensitive to two fundamental concerns: (1) that the numbers should not be so large as to become a disincentive for the U.S. to set and aggressively pursue the goals of improving the education and training its citizens; and (2) that additional thought be given to the potential effect of such aggressive, skill-based U.S. immigration policy on the ability of sending countries to pursue their human resources development policies without undue interference from the most developed countries.

With regard to independent immigration, the Labor Department welcomes and encourages the emerging view of legal immigration as part of this nation's reservoir of possible policy responses to the issue of potential skilled labor shortfalls and mismatches. At the same time, however, we strongly caution against proposals which prejudge the existence and nature of shortages and point to immigration as a principal mechanism for addressing them. In particular, we urge careful deliberation of the concept of a point system and additional discussion about the most appropriate elements of a specific point system model.

Our concern stems from the recognition that we have only a superficial understanding of the Canadian and Australian systems on which S. 358 is modeled. Furthermore, this Department has some serious questions regarding the methodology, costs, and administrative feasibility of incorporating such a model into our own legal immigrant selection system without additional study.

At this time, for instance, we think that some aspects of such proposals overestimate the Government's ability to target immigrants to needed labor market adjustments. First, anticipating labor demand is never an easy task. Second, responding to it in a timely fashion through immigration is even more of a problem for it requires not only the resolution of extremely complex conceptual, analytical, and technical questions but also an extraordinary degree of constant fine-tuning of the projection model and a regulatory response time which may be quite unrealistic. Third, the size and complexity of the U.S. labor market, with its myriad of distinct regional and local components, may not lend itself particularly well to such long-term "planning."

The Government's ability to target immigrants to needed labor market adjustments may be influenced by a number of other factors. For example, education levels and the English language ability of immigrants would presumably facilitate such efforts. However, other factors may complicate the task. Even if we were able to agree on a definition of what constitutes a shortage; and resolve such intellectually prickly questions as when a shortage is real, rather than contrived or staged; and on the tests that an industry or firm must meet in order to establish that a shortage exists; and on a reliable methodology for anticipating worker shortages accurately; and, finally, on the political implications of such a decision, several questions still remain: Is immigration an appropriate vehicle for addressing such shortages? And if the answer to this question is even a qualified "yes," can the immigration system respond quickly enough to an employer's need for workers? Furthermore, can a mechanism be devised to shut off the process quickly enough in response to changing economic circumstances so as not to cause disequilibrium and disarray in specific sectors or local labor markets? Finally, can we retain adequate controls so as not to weaken U.S. worker protections from foreign worker competition?

In general, my Department's view on immigrant selection systems is that their particular elements should be carefully considered and that sufficient lead time and resources for the development of a system be allocated so that they can balance employer and worker interests in the context of the overall national interest. Among the attributes that we would like to see reflected in any employment-related immigrant admissions system are the following:

> (1) modest initial increases in current employment-related immigrant admissions (the levels envisioned by S. 358 are at the upper limits of what we consider reasonable at this time);
>
> (2) greater emphasis on generic human capital characteristics, rather than specific (and thus fluctuating) skill "shortfalls;"
>
> (3) flexibility, which comes from frequent regular reviews not only of numbers but also of the overall philosophy and selection formula;
>
> (4) simplicity, as a means of controlling administrative costs and reducing the inevitable legal challenges; and, finally,
>
> (5) provisions for relatives of U.S. citizens and permanent residents who qualify to receive priority among labor market immigrants.

Central to this overall issue is my Department's strong belief that the U.S. must develop the ability to collect timely and accurate information about the labor market characteristics and behavior of all groups that gain access to the U.S. labor market. The size and diversity of that population require the availability of this information as a prerequisite to formulating effective public policy. In view of this interest, we strongly endorse S. 358's proposals for periodic reports on and reviews of our immigration system.

S. 358 would amend Sec. 212(a)(14) of the Immigration and Nationality Act (INA) which sets the procedure for granting labor certifications to aliens coming to the U.S. for employment purposes. Under current law, the Secretary of Labor makes labor certification determinations on a case-by-case basis, deciding in each case: (1) whether there are "...sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa...and at the place where the alien is to perform such skilled or unskilled labor" (emphasis added); and (2) whether the employment of the alien will adversely affect the wages and working conditions of U.S. workers who are similarly employed.

Under the proposed amendment, only those seeking to enter the U.S. to perform skilled labor would be subject to the labor certification requirement. Furthermore, the Secretary of Labor would be given the discretion of retaining the current labor certification procedure or adopting a new one that eliminates the "able and willing" and "time and place" provisions and focuses only on whether "...there are sufficient qualified workers (or equally qualified workers...)...in the positions in which the aliens will be employed."

In addition, the Secretary would be given the authority to make labor certification determinations on the basis of labor market information while retaining the option of case-by-case determination. If certification is denied as a result of relying on labor market information, and the employer submits evidence that individual case certification would have resulted in a different determination, the Secretary of Labor would be required to make a certification based on a specific job opportunity.

S. 358 would also require my Department to conduct a study to determine whether the labor certification process, as amended by this Bill, has been simplified or otherwise expedited. The findings of that study, along with relevant recommendations from other appropriate executive departments, are to be reported to Congress no later than March 31, 1993.

The Department of Labor strongly supports most aspects of the proposed amendments to the labor certification process. The opportunity to apply the availability criterion on either a nationwide or a more localized basis provides a degree of flexibility that could enhance protections for U.S. workers. In addition, as we have previously testified, the Department believes that the use of labor market information in making labor certification determinations could prove significantly less costly and time-consuming than current labor certification procedures, without harming our ability to protect the wages and job opportunities of U.S. workers.

In two areas, however, we have significant reservations. The first is the narrowing of the coverage of labor certification to apply only to skilled workers. This amounts to a fundamental retreat from the current practice of applying full labor market tests both to third and sixth preference visa applicants. Instead, S. 358 apparently proposes the application of the full test only to some of the new third preference independent immigrants. We strongly propose extending the full labor market test to unskilled workers and baccalaureate degree professionals in this preference category, as well as to immigrants seeking to enter the U.S. under the new second independent preference category. While we are well aware of the shortcomings of the current labor certification process, we find the "job offer" alternative envisioned for that group of immigrants a potentially inadequate protection for U.S. workers. We believe, instead, that the route of amendments to the labor certification process itself is the more responsible course at this time.

The second area of concern regards the "equally qualified" standard that S. 358 would continue. As it has in the past, the Department wishes to make its position clear on the application of that standard to members of the teaching profession. This special standard of availability, extended to employers of college or university teachers in 1976, enables educational institutions to petition for the admission of "more qualified" aliens, even if qualified U.S. teachers are available. The Department supports the admittance of certain persons of exceptional skill or ability but does not believe that such a standard should be applied to individuals on the basis of their occupation alone. The possession of an advanced degree or the license to practice a profession or occupation should not be viewed as sufficient evidence of exceptional skill or ability. Thus, while the Department recognizes the value of, and fully supports efforts to ensure excellence in education, it does not support the application of the "equally qualified" standard to foreign researchers and/or members of the teaching profession unless they are of exceptional ability. In the final analysis, the principle should be clear: qualified U.S. workers in professional occupations merit the same kind of labor market protections accorded to U.S. workers in all other occupations.

On a somewhat related point, we are uncertain how the Bill's reference to persons of "exceptional ability in business" relates to the new investor class and how it might be implemented. In view of the difficulty in assessing "exceptional ability in business", additional thought might be given to putting in place controls similar in spirit to those instituted for investors to ensure that abuses in this category are held to a minimum. Another new category might be "exceptional ability in education"-- particularly within the context of the Bill's refinement of the definition of what constitutes "exceptional ability." "Exceptional educators" might also be important in helping us meet our long-term goal of enhancing the quality of our workforce and ensure that U.S. workers are given every possible opportunity to participate fully and advance in our labor market of the future.

To recapitulate, the Department of Labor endorses making the immigration process more sensitive to U.S. labor market needs. My Department believes that labor market conditions should always be considered when discussing significant immigration changes. Proposed changes purporting to respond to labor market conditions should be especially careful so as not to prejudge labor market events yet to happen (such as actual shortages), should include a mechanism for regular review, and should not be of such size as to influence the market in unpredictable and unanticipated ways.

Secretary Dole is committed to the view that during this period of tighter labor markets, employers should be encouraged to reach out to our disadvantaged workers, to those not in the labor market, and to all U.S. workers seeking to advance themselves. Changes in immigration policy should thus not be allowed to interfere unduly with the opportunity that a tighter labor market affords our nation to enhance the skills and consequent labor market status of a nation's most precious resource: its workers.

Conclusion

My Department's principal responsibility is to look to and prepare U.S. workers for filling any labor shortfalls which might occur. Among the approaches currently explored by the Department of Labor in this regard are initiatives designed to increase U.S. labor force participation rates, enhance opportunities for the advancement of women, minorities, and other disadvantaged workers, improve the skills of the U.S. labor force, improve the quality of jobs, and improve the matching of workers and jobs. Only if such measures still prove inadequate to meet U.S. labor needs should significant additional levels of immigration be tapped.

This concludes my formal statement, Mr. Chairman. My staff and I will be available to work with you and your staff on all issues of interest to my Department as the review of our legal immigration system continues. I will be pleased to answer any questions you may have.

Senator **Kennedy**. Thank you very much.

Commissioner, to move along, we increase second preference in our legislation. Do you find that there is a significant increasing demand as a result of the 1986 act in that area?

Mr. **Nelson**. I think there will be. I don't know if we have seen it, but I might ask Mr. Puleo, Assistant Commissioner for Adjudications, to respond in detail on that.

Mr. **Puleo**. We haven't as yet, Mr. Kennedy, because the applications from temporary resident to permanent resident have just been completed as of November.

Senator **Kennedy**. Do you anticipate that?

Mr. **Puleo**. Yes, absolutely. We expect approximately a 2 million increase in applications over the next 2 years directly related to IRCA.

Senator **Kennedy**. So, what would be the backlog in terms of time under the existing law if you get the anticipated flow line? What would be the time that would be necessary to wait before being able to join with their family here in the United States?

Mr. **Puleo**. Well, currently, there are around 400,000 in the second preference alone, so it would increase dramatically if additional numbers——

Senator **Kennedy**. Well, I understand. What is the waiting time for Mexico now? Isn't it about 7 or 8 years?

Mr. **Puleo**. I believe it is much higher than that. It is over 10 years.

Senator **Kennedy**. Over 10 years now, and you are going to add to that list now how many thousands?

Mr. **Puleo**. We project overall a 2 million increase in applications over the next 2 years.

Senator **Kennedy**. Well, if you are waiting 10 years now and you are going to have that add-on under the existing law, it seems to me that the idea that husbands and wives are going to be reunited is pretty faint or far in the distance, is it not?

Mr. **Nelson**. I think the principal point you make is a good one.

Senator **Kennedy**. Well, could you just submit some written testimony on that? I will give you another question to develop that, but I would like to know the numbers, what you anticipate from which countries, what the length of time is at the current time on the second preference backlog, and what you anticipate it will be over a reasonable period of the future.

Mr. **Nelson**. We will provide that.

Senator **Kennedy**. OK.

[Information follows:]

Question from Senator Kennedy. What is the current waiting time for and current number of Second Preference visa applicants from Mexico? What will be the effects of IRCA on this category (waiting time and number)?

Service Answer. Based on the most current information available to the Service from the Department of State, the following applies to Second Preference applicants from Mexico:

Applications pending	75,653
Visa availability date (10.5 years)	07-08-78

As a result of IRCA, we anticipate an increase of more than 2 million applications and petitions of all types from newly legalized persons over the next two fiscal years. Of this number, we expect approximately 826,000 additional I-130 relative visa petitions during fiscal year 1989 and an additional 917,000 in fiscal year 1990.

Since newly legalized aliens will only be in a position to file Second Preference petitions, we calculate that these numbers will only apply to that category.

Based on data that, conservatively, more than 70 percent of newly legalized aliens are natives of Mexico, Second Preference visa applications for natives of that country could increase by 578,000 during fiscal year 1989 and by 642,000 in fiscal year 1990. During fiscal year 1989 alone, this would result in a more than 90-year wait for a Second Preference immigrant for a native of Mexico.

Senator KENNEDY. Ms. Clark, you mention the figures in terms of the cost of the legislation. You are familiar with the provisions in dealing with those in our legislation?

Ms. CLARK. Yes, sir, I am.

Senator KENNEDY. Hopefully, you are because we got them from the Department of State some time ago, and we did it with the instruction to try and be neutral in terms of the costs of the bill.

All I would say is, maybe you would get a look at them now and perhaps the cost factors have changed since the last time we considered the legislation. And if you would look at it and let us know and guide us on that, I think it has been Senator Simpson's and my position that we want to make it self-supporting.

I think it is unrealistic, given the economic and budgetary considerations, that we could make progress unless it was revenue-neutral. So, if you would look those over, we have tried in terms of the fee, as well as allocating costs, to try and deal with that. But perhaps there have been some changes and we would welcome whatever you might have on that, since you identified it.

Ms. CLARK. Thank you very much. We will do that.

Senator KENNEDY. Mr. Lawson, I wear the other hat of our Labor Committee. You know, we have had very good testimony on the basic flowline in terms of what the needs are in our labor market. We have had about 1.9 million that have been going into the market over the period of the last years. That number is going to come down to about 1.4 million, with a shortfall of about 400,000 to 500,000 a year.

I think there is an extraordinary opportunity to really deal with the problems of poverty in this country with training and other issues that we won't bother getting into—day care, health care, and other things.

But the Department has been really quite explicit in terms of the shortage areas in the Department of Labor studies—about half in the service industry, half in very special skills. And we have had the opportunity to hear from Secretary Dole on that with the very thorough report that has been developed by the Department.

So, as we are working out the point system in our bill—about occupations and then occupational skills, which would give some advantages to those that have needed skills, and particularly if they have had needed skills and also had utilized those skills—they get an edge. It doesn't exclude the possibility of getting to the requisite number of points without those, but it certainly gives an advantage.

So, I won't take the time now, but it seems to me that as chairman of the Labor and Human Resources Committee we have gotten a pretty good analysis about what the needs are going to be and where they are going to be, and hopefully we can use those.

If our criteria in terms of the point system are not consistent with what I think has been a pretty sound study by the Department, we are going to welcome your adjustments and changes. But it seems to me that it is a unique period of time where we have had very thorough examination by the Labor Department for the year 2000 on the skills that we were going to need.

We have tried to adopt that concept and put it in here. I think we are fortunate to have had that study, and if there are some changes that you think we need that are in any way inconsistent with that study, I would hope that you would get back to us.

Mr. LAWSON. Thank you, sir.

Senator KENNEDY. We certainly want to be able to do that.

I have no other questions. I would recognize Senator Simpson.

Senator SIMPSON. Thank you, Mr. Chairman.

With regard to Commissioner Nelson, you indicate you support the basic concepts of the bill and feel it is a good start, and I appreciate that. Will the administration be submitting its own legislation during this Congress?

Mr. NELSON. I would hope so, Senator Simpson. As I mentioned in my earlier remarks, we went through the process within the various departments, including the Cabinet, and I think we had some very good discussions and were making progress.

I will be submitting to Attorney General Thornburgh within the next few days a repeat of the package INS developed last year, with some changes that we have evolved along. We think it is a good package. We think it supplements a lot of the bills that you have here.

So, I will encourage people throughout the administration to again go through a similar process, with the idea that I think it is important that the administration, as we did during the Immigration Reform and Control Act legislation, take a very active and pro-active role. So, I will do all I can to get an administration bill in, but we think it will be comparable to what you have, and so we look at it as a supplement, a parallel kind of effort.

Senator SIMPSON. I think it would be good to get that to us as soon as possible. Last year, we moved along rather crisply and then material came and it was helpful, but it would have been more helpful earlier. Perhaps that was timing on our part, or whatever, but that will be very helpful to us. So, when we go to the House with some package, we can have good information from the administration.

I just had a final question for you. You noted your concern about clearing backlogs, or "retroactively repealing numerical limits established by Congress," was the quote. How do we avoid creating the perception that every time a backlog appears, we should clear it?

In other words, I would hope to avoid that perception that every single time, at every single level, every time there is a backlog, that we clear it.

Mr. NELSON. That is an excellent point, Senator Simpson, and I fully agree with that. I don't think that we want to create that perception, and certainly not the reality that would follow.

I think a little bit as with IRCA, where we had the legalization provisions at a time we were making a major reform of our legal immigration laws, better enforcement procedures, we had the balance of the legalization program. And, of course, the issue and the dispute came, well, is it a one-time-only program or will it be repeated. Of course, the administration position, and I think the language in the act, was that this was clearly one time only.

I use that as an example which I think would be parallel here. In legal immigration reform, as you make major changes which are needed, the idea of a one-time backlog reduction as part of that, I think, is a reasonable thought because we do have a problem there; try to move the people, again, into the appropriate categories, independent or family. So, we think the concept of backlog reduction in that broad principle is worthwhile, but I fully agree with your point that we would not want to make it as a regular type of renewable program.

Senator SIMPSON. Ms. Clark, it is nice to see you again, too, always. You speak of the complexity and cost of administering the point system. I think that we intend that application fees would pay most of those costs and for the State Department, I think, to be able to retain a portion of those fees.

But do you have any less expensive or less complex alternatives which would still be able to choose qualified applicants and immigrants from all countries of the world who have no specific family or job offer connections to the United States?

Ms. CLARK. Well, I think we need to study this question a little more carefully, but certainly in the point system, the English language provision adds another tremendous burden on us. We would appreciate some guidance as to what it is the committee is looking for in the way of competence in the English language.

You don't really tell us whether or not you want to have the professional people know sufficient English to carry them in their particular line of work or whether you want it to be the equivalent of high school English, or just what, or which test to use and what educational level, and so forth. This is a very time-consuming process for us.

Senator SIMPSON. Well, we have had that kind of a standard through all the years of naturalization about English, and it is, you know, difficult. But let me come back. I don't want to go over my time, but one curious thing—I think there is a fascinating thing here.

You mentioned in your testimony that 25 percent of the second preferences are unmarried sons and daughters of legal aliens and their children. Now, that really is fascinating. How many children of unmarried sons and daughters do we admit each year? What is that figure?

Ms. CLARK. 9,000 in 1987.

Senator SIMPSON. 9,000 children of unmarried sons and daughters?

Ms. CLARK. That is correct.

Senator SIMPSON. That is kind of a hidden category in the second preference, isn't it? [Laughter.]

Ms. CLARK. It certainly is.

Senator SIMPSON. I think we ought to address that in the future. Those, you know, are rather remarkable statistics, 9,000.

Well, just from a State Department view, and, boy, we get into the foreign policy aspects all the time, especially with refugees. You note in your testimony that most of the backlog clearing category obviously is going to go to Mexico and the Philippines. We did that because we are eliminating a portion of the fifth preference and wanted to give relief to the applicants who have been waiting in line the longest.

Do you then perceive a foreign relations, State Department variety thereof, problem when only two countries receive the backlog visas?

Ms. CLARK. Yes, sir, I do. I think we could hear a lot from the other countries that we are being discriminatory.

Senator SIMPSON. And a question of Mr. Lawson, then. You have heard from many immigration specialists, including our friend Ben Wattenberg. I have high regard for him; he writes and he follows the issue beautifully through the years. But he predicts that we will have a severe labor shortage in the next decade and that large-scale immigration must compensate for this shortage.

Do you agree with that dramatic prediction?

Mr. LAWSON. Well, I too, have a high regard for Ben Wattenberg. As you know, Senator, the most recent Census Bureau projections point to a population stabilization and the beginnings of a population decline about the middle of the next century. So, we are talking about something that is about 50 years away.

What I think is important is that we should start thinking about these issues and we ought to engage in a debate about whether or not the United States ought to develop a population policy and what that policy might be.

Frankly, I don't know what is going to happen in 50 years, but it seems to me that playing with immigration to respond to real or perceived population problems is a dangerous game.

Furthermore, as I pointed out in my written testimony, while immigration ought to be part of the discussion about labor markets, and even a population policy, I think that we ought, at this time, to start looking at how we can incorporate most effectively those who are not in the U.S. labor market.

I think we ought to do exactly what Senator Kennedy has suggested that the Labor Department is doing right now, which is to look at how we can work with minorities, women, and those immigrants already here, and all disadvantaged workers.

Senator SIMPSON. Well, I appreciate that. I think we have to view that carefully, see what that is, anticipate that. But when we were on the Select Commission together, Senator Kennedy and I, we were stunned by the fact that nowhere in this Government do they really talk about, "population," and what is an "ideal population" of the United States demographically, environmentally. Nobody ever does that.

Mr. LAWSON. I would make one more point, if I may, Senator Simpson, with regard to immigration. There is a recent OECD report on the exact relationship between demographics and immigration, and they make the point that unless a country were to engage in extreme actions, such as taking in only very young people, immigration really makes very little difference to the age structure of the receiving countries.

Senator SIMPSON. I thank you. Thank you, Mr. Chairman.

Senator **Kennedy**. Mr. Lawson, get a look at that DOL study. It is not 50 years; it is 1990 to the year 2000. I am going to put that sheet in the record.

[Information follows:]

WORKFORCE 2000

Work and Workers for the Twenty-first Century

William B. Johnston
Project Director

Arnold E. Packer
Co-Project Director

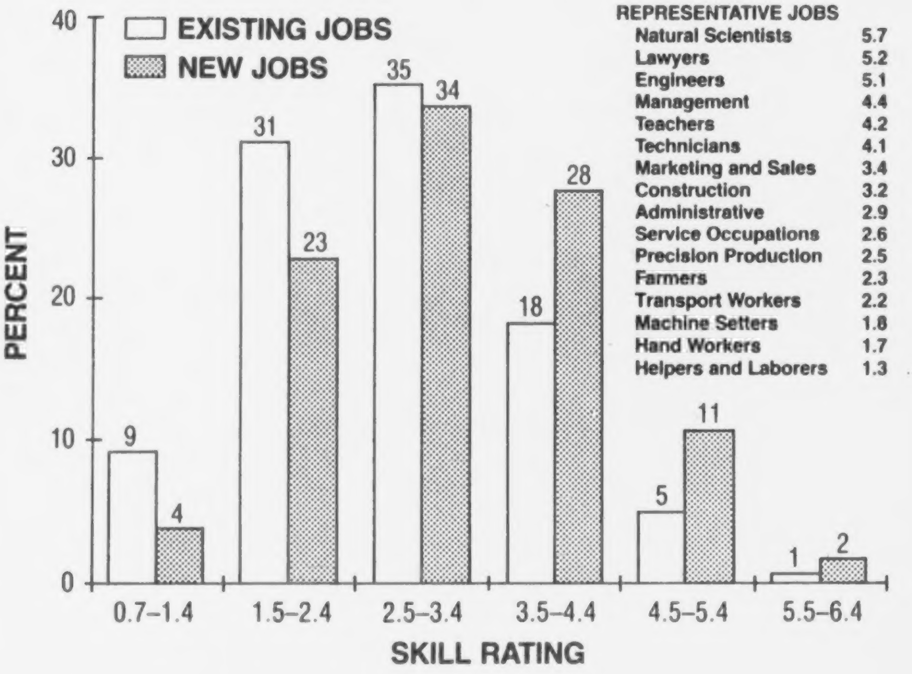
With Contributions By
Matthew P. Jaffe
Marylin Chou
Philip Deluty
Maurice Ernst
Adrienne Kearney
Jane Newitt
David Reed
Ernest Schneider
John Thomas

HUDSON INSTITUTE
Indianapolis, Indiana

HI-3796-RR

June 1987

Figure 1
LOW SKILLED JOBS ARE DECLINING



Source: Hudson Institute.

Figure 3-1
POPULATION AND LABOR FORCE GROWTH WILL DROP BY 2000
(Average Annual Gain)

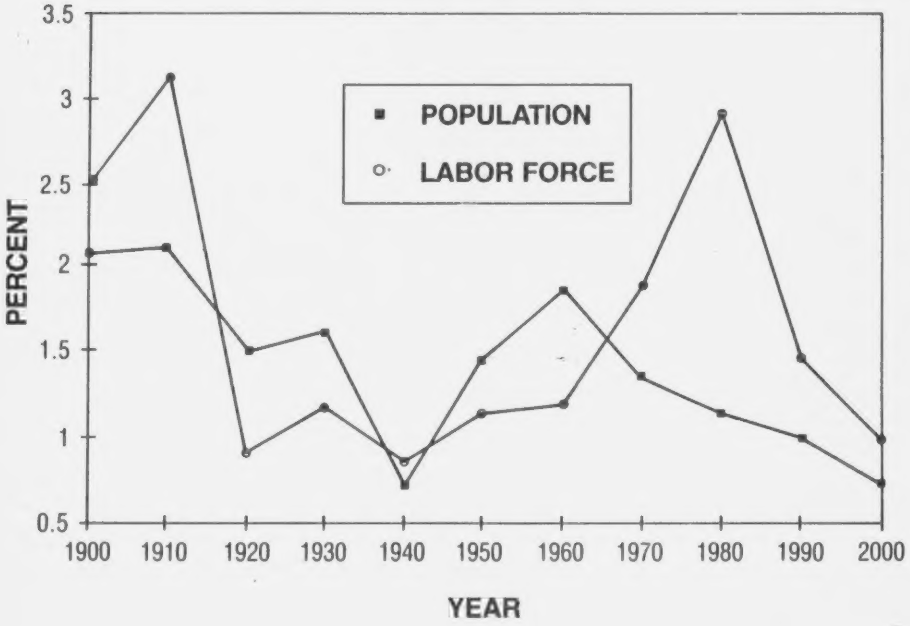
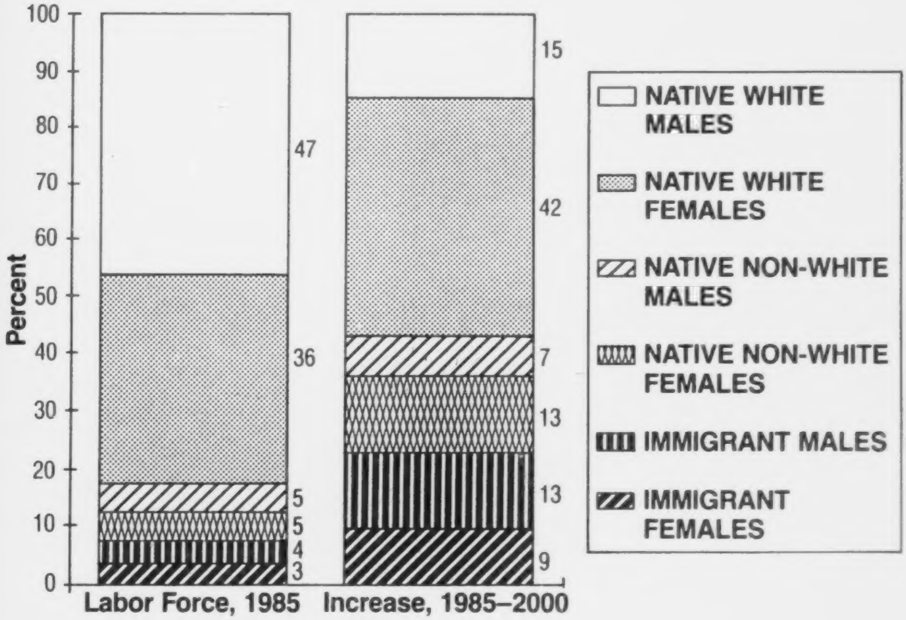


Figure 3-7
MOST NEW ENTRANTS TO THE LABOR FORCE WILL BE NON-WHITE, FEMALE OR IMMIGRANTS



Source: Hudson Institute

Table 3-7
THE CHANGING OCCUPATIONAL STRUCTURE, 1984–2000

Occupation	Current Jobs (000s)	New Jobs (000s)	Rate of Growth (Percentage)
Total	105,008	25,952	25
Service Occupations	16,059	5,957	37
Managerial and Management-Related	10,893	4,280	39
Marketing and Sales	10,656	4,150	39
Administrative Support	18,483	3,620	20
Technicians	3,146	1,389	44
Health Diagnosing and Treating Occupations	2,478	1,384	53
Teachers, Librarians, and Counselors	4,437	1,381	31
Mechanics, Installers, and Repairers	4,264	966	23
Transportation and Heavy Equipment Operators	4,604	752	16
Engineers, Architects, and Surveyors	1,447	600	41
Construction Trades	3,127	595	19
Natural, Computer, and Mathematical Scientists	647	442	68
Writers, Artists, Entertainers, and Athletes	1,092	425	39
Other Professionals and Paraprofessionals	825	355	43
Lawyers and Judges	457	326	71
Social, Recreational, and Religious Workers	759	235	31
Helpers and Laborers	4,168	205	5
Social Scientists	173	70	40
Precision Production Workers	2,790	61	2
Plant and System Workers	275	36	13
Blue Collar Supervisors	1,442	− 6	0
Miners	175	− 28	− 16
Hand Wworkers, Assemblers, and Fabricators	2,604	− 179	− 7
Machine Setters, Operators, and Tenders	5,527	− 448	− 8
Agriculture, Forestry, and Fisheries	4,480	− 538	− 12

Source: Hudson Institute.

Table 3-8
THE OCCUPATIONS OF THE FUTURE WILL REQUIRE MORE EDUCATION

	Current Jobs	New Jobs
Total	100%	100%
8 Years or Less	6%	4%
1–3 Years of High School	12%	10%
4 Years of High School	40%	35%
1–3 Years of College	20%	22%
4 Years of College or More	22%	30%
Median Years of School	12.8	13.5

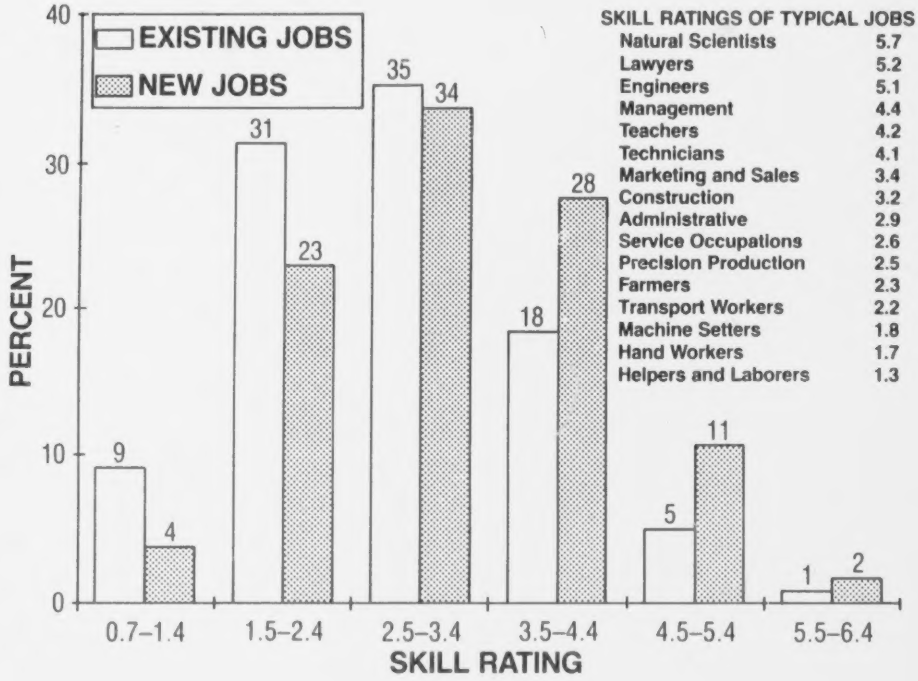
Source: Bureau of Labor Statistics, Hudson Institute.

Table 3-9
FAST-GROWING JOBS REQUIRE MORE LANGUAGE, MATH, AND REASONING SKILLS

	Current Jobs	Fast Growing	Slowly Growing	Declining
Language Rating	3.1	3.8	2.7	1.9
Math Rating	2.6	3.1	2.3	1.6
Reading Rating	3.5	4.2	3.2	2.6

Source: Hudson Institute.

Figure 3-8
LOW SKILLED JOBS ARE DECLINING



Source: Hudson Institute.

Mr. **Lawson**. No; I meant the population, sir, under the Census Bureau.

Senator **Kennedy**. I thought you were talking about the labor, not the population. But if you are talking about where we are going to be in terms of labor shortages, which I thought was the point—I will stand corrected—but I will put just that chart in there.

From 1990 to the year 2000, there is a dramatic change in terms of the labor market and what our needs are going to be——

Mr. **Lawson**. Yes, sir, absolutely.

Senator **Kennedy** [continuing]. Based on the Committee for Economic Development and DOL, in the types of skills that I was referring to before. I don't think we are suggesting now that this bill is to solve our labor shortage. We are not getting into that, but there is going to be a unique set of needs in our country during that period of time and I think we recognize that in the formulation and development of the bill.

Senator Simon.

Senator **Simon**. Thank you, Mr. Chairman.

First, I would be interested, Commissioner, in getting a country-by-country summary of how many people we admitted last time and what the backlog is. Maybe the State Department has to cooperate on that, but I would be interested in that.

Mr. **Nelson**. We will provide that, Senator.

Senator **Simon**. Great.

[Information follows:]

Question from Senator Simon. What are the current backlogs by country in the immigrant preference categories, and how many aliens are being admitted in these categories?

Service Answer. The most recent information available on backlogs and admissions is attached. The backlog information is of January 1988 and was supplied to the Service by the Department of State. State is currently compiling the same information as of January 1989. The latest available information on admissions is as of the end of fiscal year 1988 (September 30, 1988).

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988

FOREIGN STATE OF CHARGEABILITY	TOTAL NUMERIC RESTRICTION	TOTAL 1ST PREF.	TOTAL 11 & 16	P11	A11	P16	A16	TOTAL 12 & 17	P12	A12	P17	A17	TOTAL 2ND PREF.
All countries	264,148	12,107	9,971	9,274	6	691	-	2,136	2,053	-	83	-	102,777
Europe	30,407	932	818	637	-	181	-	114	96	-	18	-	5,652
Albania	3	-	-	-	-	-	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	155	2	2	-	-	2	-	-	-	-	-	-	28
Belgium	236	4	4	1	-	3	-	-	-	-	-	-	24
Bulgaria	37	1	1	-	-	1	-	-	-	-	-	-	11
Czechoslovakia	125	13	12	10	-	2	-	1	1	-	-	-	11
Denmark	170	4	4	2	-	2	-	-	-	-	-	-	21
Denmark	166	4	4	2	-	2	-	-	-	-	-	-	20
Greenland	4	-	-	-	-	-	-	-	-	-	-	-	1
Estonia	2	-	-	-	-	-	-	-	-	-	-	-	-
Finland	131	1	1	1	-	-	-	-	-	-	-	-	16
France	1,086	28	22	14	-	8	-	6	5	-	1	-	165
France	1,032	26	20	13	-	7	-	6	5	-	1	-	141
French Guiana	-	-	-	-	-	-	-	-	-	-	-	-	-
French Polynesia	7	1	1	-	-	1	-	-	-	-	-	-	1
French S. & Antarctic	6	-	-	-	-	-	-	-	-	-	-	-	6
Guadeloupe	31	-	-	-	-	-	-	-	-	-	-	-	11
Martinique	9	1	1	1	-	-	-	-	-	-	-	-	5
New Caledonia	1	-	-	-	-	-	-	-	-	-	-	-	1
Reunion	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, East	24	1	1	1	-	-	-	-	-	-	-	-	2
Germany, West	1,247	44	39	21	-	18	-	5	3	-	2	-	170
Greece	870	43	41	35	-	6	-	2	2	-	-	-	243
Hungary	201	10	7	4	-	3	-	3	2	-	1	-	23
Iceland	29	-	-	-	-	-	-	-	-	-	-	-	5
Ireland	3,557	160	160	144	-	16	-	-	-	-	-	-	50
Italy	1,173	30	25	18	-	7	-	5	5	-	-	-	233
Latvia	6	-	-	-	-	-	-	-	-	-	-	-	2
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	14	1	1	1	-	-	-	-	-	-	-	-	1
Luxembourg	11	-	-	-	-	-	-	-	-	-	-	-	-
Malta	53	-	-	-	-	-	-	-	-	-	-	-	24
Monaco	2	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	566	16	12	8	-	4	-	4	4	-	-	-	67
Netherlands	517	12	10	6	-	4	-	2	2	-	-	-	49
Aruba	33	2	1	1	-	-	-	1	1	-	-	-	14
Netherland Antilles	16	2	1	1	-	-	-	1	1	-	-	-	4
Norway	125	5	4	4	-	-	-	1	1	-	-	-	14
Poland	3,362	100	88	66	-	22	-	12	7	-	5	-	690
Portugal	2,284	15	12	10	-	2	-	3	3	-	-	-	615
Portugal	2,069	13	11	9	-	2	-	2	2	-	-	-	568
Macau	215	2	1	1	-	-	-	1	1	-	-	-	47
Romania	366	10	8	4	-	4	-	2	2	-	-	-	149
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Soviet Union	482	32	28	23	-	5	-	4	4	-	-	-	55
Spain	479	12	10	6	-	4	-	2	1	-	1	-	96
Spain	479	12	10	6	-	4	-	2	1	-	1	-	96
Western Sahara	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	480	13	11	11	-	-	-	2	2	-	-	-	43
Switzerland	297	9	7	7	-	-	-	2	-	-	2	-	20
United Kingdom	12,038	346	287	224	-	63	-	59	54	-	5	-	2,661
United Kingdom	6,319	144	122	74	-	48	-	22	17	-	5	-	661
Anguilla	23	-	-	-	-	-	-	-	-	-	-	-	11
Bermuda	56	1	1	1	-	-	-	-	-	-	-	-	20
British Virgin Is	92	10	4	4	-	-	-	6	6	-	-	-	24
Cayman Islands	9	-	-	-	-	-	-	-	-	-	-	-	3
Falkland Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-	-	-	-	-	-	-
Hong Kong	5,442	186	158	144	-	14	-	28	28	-	-	-	1,896

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL NUMERIC RESTRI-CTION	TOTAL 1ST PREF.	TOTAL 11 & 16	P11	A11	P16	A16	TOTAL 12 & 17	P12	A12	P17	A17	TOTAL 2ND PREF.
Montserrat	80	5	2	1	-	1	-	3	3	-	-	-	44
Pitcairn Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Helena	-	-	-	-	-	-	-	-	-	-	-	-	-
Turks & Caicos Is	17	-	-	-	-	-	-	-	-	-	-	-	2
Yugoslavia	796	32	31	22	-	9	-	1	-	-	1	-	207
Asia	111,232	4,335	3,724	3,615	6	103	-	611	594	-	17	-	33,823
Afghanistan	154	2	2	2	-	-	-	-	-	-	-	-	95
Bahrain	23	-	-	-	-	-	-	-	-	-	-	-	6
Bangladesh	754	3	3	2	-	1	-	-	-	-	-	-	298
Bhutan	1	-	-	-	-	-	-	-	-	-	-	-	-
Brunei	9	-	-	-	-	-	-	-	-	-	-	-	1
Burma	655	7	4	2	-	2	-	3	3	-	-	-	210
Cambodia	190	9	9	9	-	-	-	-	-	-	-	-	112
China, Mainland	20,643	107	92	87	-	5	-	15	15	-	-	-	6,021
Cyprus	94	1	1	1	-	-	-	-	-	-	-	-	18
India	17,885	30	26	20	-	6	-	4	4	-	-	-	5,555
Indonesia	930	10	8	5	-	3	-	2	2	-	-	-	129
Iran	4,141	18	16	11	-	5	-	2	2	-	-	-	1,588
Iraq	349	3	3	3	-	-	-	-	-	-	-	-	91
Israel	1,751	49	38	21	-	17	-	11	6	-	5	-	247
Japan	2,180	14	11	7	-	4	-	3	1	-	2	-	267
Jordan	1,391	27	24	21	-	3	-	3	3	-	-	-	551
Korea	20,191	62	49	45	3	1	-	13	13	-	-	-	6,958
Kuwait	284	4	-	-	-	-	-	4	-	-	4	-	88
Laos	116	10	8	8	-	-	-	2	2	-	-	-	72
Lebanon	2,438	51	41	33	-	8	-	10	10	-	-	-	899
Malaysia	607	6	3	3	-	-	-	3	3	-	-	-	138
Maldives	-	-	-	-	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-	-	-	-	-
Nepal	40	-	-	-	-	-	-	-	-	-	-	-	12
Oman	6	-	-	-	-	-	-	-	-	-	-	-	1
Pakistan	3,236	6	6	6	-	-	-	-	-	-	-	-	1,227
Philippines	18,460	3,644	3,128	3,104	-	24	-	516	511	-	5	-	4,580
Qatar	21	-	-	-	-	-	-	-	-	-	-	-	9
Saudi Arabia	127	1	1	1	-	-	-	-	-	-	-	-	37
Singapore	245	-	-	-	-	-	-	-	-	-	-	-	48
Sri Lanka	426	6	3	3	-	-	-	3	3	-	-	-	86
Syria	1,133	10	10	8	-	2	-	-	-	-	-	-	347
Taiwan	7,949	62	54	44	-	10	-	8	8	-	-	-	2,210
Thailand	1,464	42	39	36	-	3	-	3	3	-	-	-	742
Turkey	678	5	5	4	-	1	-	-	-	-	-	-	171
United Arab Emirates	81	-	-	-	-	-	-	-	-	-	-	-	13
Vietnam	2,385	89	85	77	3	5	-	4	3	-	1	-	926
Yemen (Aden)	83	25	24	23	-	1	-	1	1	-	-	-	34
Yemen (Sanaa)	112	32	31	29	-	2	-	1	1	-	-	-	36
Africa	6,480	128	112	96	-	16	-	16	13	-	3	-	2,307
Algeria	55	-	-	-	-	-	-	-	-	-	-	-	8
Angola	44	-	-	-	-	-	-	-	-	-	-	-	23
Benin	4	-	-	-	-	-	-	-	-	-	-	-	-
Botswana	1	-	-	-	-	-	-	-	-	-	-	-	1
Burkina	1	-	-	-	-	-	-	-	-	-	-	-	1
Burundi	1	-	-	-	-	-	-	-	-	-	-	-	-
Cameroon	29	1	1	1	-	-	-	-	-	-	-	-	18
Cape Verde	696	25	15	15	-	-	-	10	10	-	-	-	498
Central African Rep	1	-	-	-	-	-	-	-	-	-	-	-	1
Chad	1	-	-	-	-	-	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-	-	-	-	-	-
Congo	1	-	-	-	-	-	-	-	-	-	-	-	-
Djibouti	1	-	-	-	-	-	-	-	-	-	-	-	1
Egypt	1,296	8	8	6	-	2	-	-	-	-	-	-	408
Equatorial Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	258	7	6	5	-	1	-	1	-	-	1	-	170

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL NUMERIC RESTRI-CTION	TOTAL 1ST PREF.	TOTAL 11 & 16	P11	A11	P16	A16	TOTAL 12 & 17	P12	A12	P17	A17	TOTAL 2ND PREF.
Gabon	-	-	-	-	-	-	-	-	-	-	-	-	-
Gambia, The	7	-	-	-	-	-	-	-	-	-	-	-	-
Ghana	387	24	24	22	-	2	-	-	-	-	-	-	209
Guinea	11	1	1	1	-	-	-	-	-	-	-	-	5
Guinea-Bissau	-	-	-	-	-	-	-	-	-	-	-	-	-
Ivory Coast	12	-	-	-	-	-	-	-	-	-	-	-	7
Kenya	518	1	1	1	-	-	-	-	-	-	-	-	122
Lesotho	1	-	-	-	-	-	-	-	-	-	-	-	-
Liberia	147	9	9	8	-	1	-	-	-	-	-	-	89
Libya	55	1	-	-	-	-	-	1	1	-	-	-	11
Madagascar	8	-	-	-	-	-	-	-	-	-	-	-	1
Malawi	33	-	-	-	-	-	-	-	-	-	-	-	3
Mali	5	-	-	-	-	-	-	-	-	-	-	-	2
Mauritania	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritius	25	-	-	-	-	-	-	-	-	-	-	-	7
Morocco	140	3	3	3	-	-	-	-	-	-	-	-	55
Mozambique	42	-	-	-	-	-	-	-	-	-	-	-	7
Namibia	6	-	-	-	-	-	-	-	-	-	-	-	1
Niger	-	-	-	-	-	-	-	-	-	-	-	-	-
Nigeria	555	6	6	4	-	2	-	-	-	-	-	-	229
Rwanda	-	-	-	-	-	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-	-	-	-	-	-
Senegal	39	4	3	3	-	-	-	1	1	-	-	-	25
Seychelles	21	-	-	-	-	-	-	-	-	-	-	-	5
Sierra Leone	109	4	4	4	-	-	-	-	-	-	-	-	58
Somalia	24	2	2	2	-	-	-	-	-	-	-	-	15
South Africa	1,066	19	16	10	-	6	-	3	1	-	2	-	90
Sudan	45	1	1	1	-	-	-	-	-	-	-	-	12
Swaziland	3	1	1	-	-	1	-	-	-	-	-	-	-
Tanzania	307	1	1	-	-	1	-	-	-	-	-	-	66
Togo	-	-	-	-	-	-	-	-	-	-	-	-	-
Tunisia	34	-	-	-	-	-	-	-	-	-	-	-	8
Uganda	236	5	5	5	-	-	-	-	-	-	-	-	76
Zaire	23	1	1	1	-	-	-	-	-	-	-	-	4
Zambia	123	1	1	1	-	-	-	-	-	-	-	-	52
Zimbabwe	109	3	3	3	-	-	-	-	-	-	-	-	19
Oceania	1,629	28	26	19	-	7	-	2	1	-	1	-	394
Australia	404	14	13	9	-	4	-	1	-	-	1	-	41
Australia	404	14	13	9	-	4	-	1	-	-	1	-	41
Christmas Island	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Fiji	706	1	1	1	-	-	-	-	-	-	-	-	192
Kiribati	1	-	-	-	-	-	-	-	-	-	-	-	1
Nauru	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	198	10	9	7	-	2	-	1	1	-	-	-	14
New Zealand	198	10	9	7	-	2	-	1	1	-	-	-	14
Niue	-	-	-	-	-	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter.	8	1	1	-	-	1	-	-	-	-	-	-	7
Papua New Guinea	5	-	-	-	-	-	-	-	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Tonga	234	1	1	1	-	-	-	-	-	-	-	-	97
Tuvalu	-	-	-	-	-	-	-	-	-	-	-	-	-
Vanuatu	3	-	-	-	-	-	-	-	-	-	-	-	-
Western Samoa	70	1	1	1	-	-	-	-	-	-	-	-	42
North America	92,944	6,117	4,870	4,528	-	342	-	1,247	1,211	-	36	-	49,760
Canada	5,418	271	243	190	-	53	-	28	21	-	7	-	495
Mexico	20,231	3,556	2,827	2,687	-	140	-	729	711	-	18	-	4,522
Carribean	50,912	1,857	1,453	1,333	-	120	-	404	397	-	7	-	36,924
Antigua-Barbuda	517	15	11	8	-	3	-	4	4	-	-	-	311
Bahamas, The	192	20	15	8	-	7	-	5	5	-	-	-	101
Barbados	959	59	45	40	-	5	-	14	13	-	1	-	498

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL NUMERIC RESTRI-CTION	TOTAL 1ST PREF.	TOTAL 11 & 16	P11	A11	P16	A16	TOTAL 12 & 17	P12	A12	P17	A17	TOTAL 2ND PREF.
Cuba	3,131	170	148	139	-	9	-	22	22	-	-	-	654
Dominica	423	13	11	11	-	-	-	2	2	-	-	-	246
Dominican Republic	19,162	568	473	464	-	9	-	95	95	-	-	-	18,074
Grenada	617	24	21	20	-	1	-	3	3	-	-	-	319
Haiti	6,801	163	134	124	-	10	-	29	29	-	-	-	5,206
Jamaica	15,183	644	460	424	-	36	-	184	183	-	1	-	9,508
St. Christopher-Nevis	449	26	23	21	-	2	-	3	3	-	-	-	310
St. Lucia	396	11	9	8	-	1	-	2	1	-	1	-	234
St. Vincent & Grenadines	468	21	12	12	-	-	-	9	9	-	-	-	223
Trinidad & Tobago	2,614	123	91	54	-	37	-	32	28	-	4	-	1,240
Central America	16,383	433	347	318	-	29	-	86	82	-	4	-	7,819
Belize	687	52	33	28	-	5	-	19	19	-	-	-	426
Costa Rica	508	27	19	16	-	3	-	8	8	-	-	-	222
El Salvador	7,770	77	62	60	-	2	-	15	14	-	1	-	3,220
Guatemala	3,023	71	62	59	-	3	-	9	9	-	-	-	1,430
Honduras	2,093	94	79	72	-	7	-	15	12	-	3	-	1,425
Nicaragua	1,454	36	27	23	-	4	-	9	9	-	-	-	702
Panama	848	76	65	60	-	5	-	11	11	-	-	-	394
South America	21,453	567	421	379	-	42	-	146	138	-	8	-	10,840
Argentina	1,204	28	25	20	-	5	-	3	3	-	-	-	224
Bolivia	486	8	8	8	-	-	-	-	-	-	-	-	144
Brazil	818	13	12	9	-	3	-	1	-	-	1	-	221
Chile	741	20	19	17	-	2	-	1	1	-	-	-	281
Colombia	5,109	127	109	97	-	12	-	18	17	-	1	-	2,963
Ecuador	2,730	97	75	72	-	3	-	22	20	-	2	-	1,816
Guyana	6,839	181	98	92	-	6	-	83	83	-	-	-	3,623
Paraguay	79	2	2	2	-	-	-	-	-	-	-	-	36
Peru	2,462	63	54	50	-	4	-	9	9	-	-	-	1,172
Suriname	79	5	3	1	-	2	-	2	-	-	2	-	22
Uruguay	279	7	6	3	-	3	-	1	1	-	-	-	105
Venezuela	627	16	10	8	-	2	-	6	4	-	2	-	233
Non-quota immigrant	-	-	-	-	-	-	-	-	-	-	-	-	-
Unknown or not reported	3	-	-	-	-	-	-	-	-	-	-	-	1

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 21 & 26	P21	C21	P26	C26	TOTAL 22 & 27	P22	C22	P27	C27	TOTAL 23 & 28	P23	C23
All countries	29,898	17,889	11,003	843	163	54,123	52,435	503	1,170	15	18,756	16,958	1,680
Europe	1,675	879	665	112	19	3,469	3,263	30	170	6	508	414	79
Albania	-	-	-	-	-	-	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	15	11	4	-	-	11	9	-	2	-	2	1	-
Belgium	12	8	3	-	1	11	7	-	4	-	1	1	-
Bulgaria	6	4	1	1	-	5	4	-	1	-	-	-	-
Czechoslovakia	6	2	4	-	-	5	3	-	2	-	-	-	-
Denmark	11	4	6	-	1	8	7	-	1	-	2	2	-
Denmark	10	4	6	-	-	8	7	-	1	-	2	2	-
Greenland	1	-	-	-	1	-	-	-	-	-	-	-	-
Estonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Finland	8	7	1	-	-	6	4	-	2	-	2	2	-
France	55	27	22	5	1	83	73	-	10	-	27	20	7
France	49	24	19	5	1	69	59	-	10	-	23	17	6
French Guiana	-	-	-	-	-	-	-	-	-	-	-	-	-
French Polynesia	-	-	-	-	-	1	1	-	-	-	-	-	-
French S. & Antarctic	1	-	1	-	-	5	5	-	-	-	-	-	-
Guadeloupe	2	2	-	-	-	5	5	-	-	-	4	3	1
Martinique	2	1	1	-	-	3	3	-	-	-	-	-	-
New Caledonia	1	-	1	-	-	-	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, East	2	1	1	-	-	-	-	-	-	-	-	-	-
Germany, West	76	30	28	16	2	80	65	1	14	-	14	11	2
Greece	102	57	40	2	3	114	108	1	4	1	27	17	10
Hungary	16	10	4	2	-	10	9	-	1	-	3	3	-
Iceland	3	-	3	-	-	2	2	-	-	-	-	-	-
Ireland	18	11	5	1	1	31	29	-	2	-	1	-	1
Italy	109	68	38	3	-	99	96	-	3	-	25	19	4
Latvia	1	1	-	-	-	1	1	-	-	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	1	-	1	-	-	-	-	-	-	-	-	-	-
Luxembourg	-	-	-	-	-	-	-	-	-	-	-	-	-
Malta	10	3	7	-	-	14	13	-	1	-	-	-	-
Monaco	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	27	14	10	3	-	29	26	-	3	-	11	11	-
Netherlands	20	10	8	2	-	22	20	-	2	-	7	7	-
Aruba	6	3	2	1	-	4	4	-	-	-	4	4	-
Netherland Antilles	1	1	-	-	-	3	2	-	1	-	-	-	-
Norway	6	5	-	1	-	8	8	-	-	-	-	-	-
Poland	328	216	83	25	4	340	312	7	20	1	22	20	-
Portugal	264	90	165	8	1	294	284	3	5	2	57	41	16
Portugal	248	83	158	6	1	265	260	2	1	2	55	40	15
Macau	16	7	7	2	-	29	24	1	4	-	2	1	1
Romania	66	22	38	5	1	74	59	11	3	1	9	9	-
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Soviet Union	28	20	7	1	-	24	23	-	1	-	3	3	-
Spain	51	28	20	3	-	37	34	-	3	-	8	7	1
Spain	51	28	20	3	-	37	34	-	3	-	8	7	1
Western Sahara	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	11	7	1	2	1	26	24	-	1	1	6	4	-
Switzerland	13	8	3	1	1	5	5	-	-	-	2	1	1
United Kingdom	325	169	127	27	2	2,078	1,985	6	87	-	258	221	30
United Kingdom	166	70	79	16	1	367	339	4	24	-	128	106	16
Anguilla	2	1	1	-	-	8	8	-	-	-	1	1	-
Bermuda	4	2	2	-	-	11	11	-	-	-	5	5	-
British Virgin Is	4	3	1	-	-	16	13	-	3	-	4	4	-
Cayman Islands	1	-	1	-	-	2	2	-	-	-	-	-	-
Falkland Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-	-	-	-	-	-	-
Hong Kong	139	88	39	11	1	1,650	1,589	2	59	-	107	98	8
Montserrat	7	3	4	-	-	24	23	-	1	-	13	7	6
Pitcairn Islands	-	-	-	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 21 & 26	P21	C21	P26	C26	TOTAL 22 & 27	P22	C22	P27	C27	TOTAL 23 & 28	P23	C23
St. Helena	-	-	-	-	-	-	-	-	-	-	-	-	-
Turks & Caicos Is	2	2	-	-	-	-	-	-	-	-	-	-	-
Yugoslavia	105	56	43	6	-	74	73	1	-	-	28	21	7
Asia	10,721	3,947	6,192	458	124	20,086	19,195	195	690	6	3,016	2,547	429
Afghanistan	54	23	22	8	1	37	31	-	6	-	4	2	-
Bahrain	1	1	-	-	-	5	4	-	1	-	-	-	-
Bangladesh	109	64	41	2	2	162	162	-	-	-	27	26	1
Bhutan	-	-	-	-	-	-	-	-	-	-	-	-	-
Brunei	-	-	-	-	-	1	1	-	-	-	-	-	-
Burma	29	16	12	1	-	175	172	-	3	-	6	6	-
Cambodia	32	24	6	1	1	78	77	-	1	-	2	2	-
China, Mainland	2,275	654	1,548	47	26	3,248	3,189	7	50	2	498	400	95
Cyprus	10	4	6	-	-	8	6	-	2	-	-	-	-
India	2,559	509	1,978	57	15	2,825	2,731	54	39	1	171	119	50
Indonesia	38	26	6	4	2	81	71	-	10	-	10	10	-
Iran	545	356	98	79	12	921	757	4	159	1	122	117	2
Iraq	43	25	9	9	-	43	35	-	8	-	5	2	-
Israel	94	54	34	6	-	124	114	-	10	-	29	24	4
Japan	209	116	85	3	5	38	35	-	3	-	20	17	3
Jordan	163	80	75	7	1	329	315	1	12	1	59	51	7
Korea	2,156	500	1,584	61	11	3,982	3,827	79	76	-	820	567	249
Kuwait	16	12	1	2	1	59	53	1	5	-	13	12	-
Laos	14	10	-	3	1	52	52	-	-	-	6	6	-
Lebanon	186	118	44	22	2	657	615	1	41	-	56	51	1
Malaysia	58	21	29	6	2	77	65	-	12	-	3	1	-
Maldives	-	-	-	-	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-	-	-	-	-
Nepal	6	1	3	1	1	6	4	-	2	-	-	-	-
Oman	-	-	-	-	-	1	1	-	-	-	-	-	-
Pakistan	401	189	198	11	3	758	706	34	18	-	68	64	3
Philippines	306	287	5	12	2	3,530	3,516	5	8	1	744	744	-
Qatar	2	1	1	-	-	7	7	-	-	-	-	-	-
Saudi Arabia	2	-	2	-	-	26	20	-	6	-	9	8	-
Singapore	18	6	10	1	1	30	28	-	2	-	-	-	-
Sri Lanka	41	21	17	3	-	42	36	-	6	-	3	3	-
Syria	82	60	17	5	-	263	251	1	11	-	2	2	-
Taiwan	638	404	117	87	30	1,393	1,219	1	173	-	179	166	4
Thailand	248	121	116	7	4	402	389	3	10	-	92	81	7
Turkey	75	47	26	2	-	88	82	3	3	-	8	7	1
United Arab Emirates	2	-	2	-	-	2	2	-	-	-	9	8	1
Vietnam	301	190	99	11	1	574	562	1	11	-	51	50	1
Yemen (Aden)	6	5	1	-	-	28	26	-	2	-	-	-	-
Yemen (Sanaa)	2	2	-	-	-	34	34	-	-	-	-	-	-
Africa	891	525	288	67	11	1,176	1,099	33	44	-	240	226	7
Algeria	8	5	2	-	1	-	-	-	-	-	-	-	-
Angola	2	1	1	-	-	11	10	-	1	-	10	10	-
Benin	-	-	-	-	-	-	-	-	-	-	-	-	-
Botswana	-	-	-	-	-	1	-	1	-	-	-	-	-
Burkina	-	-	-	-	-	1	1	-	-	-	-	-	-
Burundi	-	-	-	-	-	-	-	-	-	-	-	-	-
Cameroon	12	9	1	2	-	6	5	-	1	-	-	-	-
Cape Verde	90	60	29	-	1	311	311	-	-	-	97	92	5
Central African Rep.	1	1	-	-	-	-	-	-	-	-	-	-	-
Chad	-	-	-	-	-	-	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-	-	-	-	-	-
Congo	-	-	-	-	-	-	-	-	-	-	-	-	-
Djibouti	-	-	-	-	-	1	1	-	-	-	-	-	-
Egypt	143	65	73	5	-	252	236	7	9	-	13	13	-
Equatorial Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	116	72	27	16	1	50	46	-	4	-	4	4	-
Gabon	-	-	-	-	-	-	-	-	-	-	-	-	-
Gambia, The	-	-	-	-	-	-	-	-	-	-	-	-	-
Ghana	74	51	18	5	-	60	51	6	3	-	75	74	1
Guinea	4	4	-	-	-	1	1	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 21 & 26	P21	C21	P26	C26	TOTAL 22 & 27	P22	C22	P27	C27	TOTAL 23 & 28	P23	C23
Guinea-Bissau	-	-	-	-	-	-	-	-	-	-	-	-	-
Ivory Coast	4	4	-	-	-	1	1	-	-	-	2	2	-
Kenya	58	22	32	2	2	59	55	2	2	-	5	2	-
Lesotho	-	-	-	-	-	-	-	-	-	-	-	-	-
Liberia	35	27	-	7	1	51	49	-	2	-	3	3	-
Libya	1	1	-	-	-	6	4	-	2	-	4	4	-
Madagascar	1	-	1	-	-	-	-	-	-	-	-	-	-
Malawi	2	1	1	-	-	1	1	-	-	-	-	-	-
Mali	1	1	-	-	-	1	1	-	-	-	-	-	-
Mauritania	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritius	4	2	2	-	-	3	3	-	-	-	-	-	-
Morocco	24	14	7	3	-	31	31	-	-	-	-	-	-
Mozambique	-	-	-	-	-	5	5	-	-	-	2	2	-
Namibia	-	-	-	-	-	1	1	-	-	-	-	-	-
Niger	-	-	-	-	-	-	-	-	-	-	-	-	-
Nigeria	159	104	35	16	4	64	48	13	3	-	6	2	1
Rwanda	-	-	-	-	-	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-	-	-	-	-	-
Senegal	5	3	1	1	-	16	16	-	-	-	4	4	-
Seychelles	1	1	-	-	-	4	3	-	1	-	-	-	-
Sierra Leone	22	19	3	-	-	31	30	-	1	-	5	5	-
Somalia	10	6	-	3	1	5	5	-	-	-	-	-	-
South Africa	22	10	10	2	-	63	49	1	13	-	5	4	-
Sudan	5	5	-	-	-	5	5	-	-	-	2	2	-
Swaziland	-	-	-	-	-	-	-	-	-	-	-	-	-
Tanzania	26	6	19	1	-	37	35	1	1	-	3	3	-
Togo	-	-	-	-	-	-	-	-	-	-	-	-	-
Tunisia	2	-	2	-	-	6	6	-	-	-	-	-	-
Uganda	29	12	16	1	-	47	46	1	-	-	-	-	-
Zaire	2	2	-	-	-	2	1	1	-	-	-	-	-
Zambia	22	14	6	2	-	30	30	-	-	-	-	-	-
Zimbabwe	6	3	2	1	-	13	12	-	1	-	-	-	-
Oceania	187	94	76	17	-	144	139	-	5	-	63	56	6
Australia	18	10	7	1	-	17	17	-	-	-	6	4	2
Australia	18	10	7	1	-	17	17	-	-	-	6	4	2
Christmas Island	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Fiji	87	26	58	3	-	73	72	-	1	-	32	29	3
Kiribati	1	-	1	-	-	-	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	8	5	2	1	-	1	1	-	-	-	5	4	1
New Zealand	8	5	2	1	-	1	1	-	-	-	5	4	1
Niue	-	-	-	-	-	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter	5	1	-	4	-	2	-	-	2	-	-	-	-
Papua New Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Tonga	46	37	6	3	-	35	35	-	-	-	16	16	-
Tuvalu	-	-	-	-	-	-	-	-	-	-	-	-	-
Vanuatu	-	-	-	-	-	-	-	-	-	-	-	-	-
Western Samoa	22	15	2	5	-	16	14	-	2	-	4	3	-
North America	13,132	10,625	2,366	135	6	23,862	23,482	194	184	2	12,766	11,917	811
Canada	150	75	58	16	1	246	217	3	26	-	99	76	12
Mexico	1,344	1,275	36	33	-	2,576	2,554	1	21	-	602	598	1
Carribean	9,353	7,735	1,560	55	3	16,844	16,733	48	61	2	10,727	10,023	686
Antigua-Barbuda	51	29	21	1	-	176	174	1	1	-	84	79	3
Bahamas, The	18	13	5	-	-	77	71	2	4	-	6	6	-
Barbados	131	59	71	-	1	228	226	-	2	-	139	115	24
Cuba	159	144	12	3	-	394	392	2	-	-	101	99	1
Dominica	34	16	18	-	-	144	143	-	-	1	68	55	13
Dominican Republic	5,084	5,054	22	8	-	6,929	6,918	2	9	-	6,061	6,051	7
Grenada	89	44	45	-	-	150	149	-	1	-	80	68	12
Haiti	1,403	871	515	15	2	2,671	2,642	10	19	-	1,132	890	240
Jamaica	1,887	1,231	639	17	-	5,074	5,026	28	19	1	2,547	2,235	308

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 21 & 26	P21	C21	P26	C26	TOTAL 22 & 27	P22	C22	P27	C27	TOTAL 23 & 28	P23	C23
St. Christopher-Nevis	45	19	26	-	-	159	159	-	-	-	106	79	21
St. Lucia	51	30	21	-	-	124	123	1	-	-	59	53	6
St. Vincent & Grenadines	59	29	29	1	-	103	102	1	-	-	61	55	6
Trinidad & Tobago	342	196	136	10	-	615	608	1	6	-	283	238	45
Central America	2,285	1,540	712	31	2	4,196	3,978	142	76	-	1,338	1,220	112
Belize	86	62	23	1	-	228	227	-	1	-	112	103	7
Costa Rica	82	56	23	3	-	103	99	1	3	-	37	29	8
El Salvador	1,061	690	363	8	-	1,808	1,682	118	8	-	351	343	8
Guatemala	438	317	119	2	-	693	671	12	10	-	299	271	27
Honduras	360	223	134	2	1	731	718	8	5	-	334	285	48
Nicaragua	162	121	29	12	-	405	356	2	47	-	135	123	10
Panama	96	71	21	3	1	228	225	1	2	-	70	66	4
South America	3,291	1,819	1,415	54	3	5,386	5,257	51	77	1	2,163	1,798	348
Argentina	99	56	37	6	-	103	96	-	7	-	22	18	1
Bolivia	46	35	10	1	-	91	86	3	2	-	7	7	-
Brazil	116	88	26	2	-	80	77	-	3	-	25	25	-
Chile	93	58	33	1	1	159	147	1	10	1	29	27	2
Colombia	1,095	629	445	20	1	1,395	1,351	23	21	-	473	373	96
Ecuador	507	305	195	7	-	849	843	2	4	-	460	386	74
Guyana	831	294	536	1	-	1,808	1,799	5	4	-	984	808	174
Paraguay	16	10	6	-	-	18	17	1	-	-	2	2	-
Peru	354	260	85	8	1	719	697	15	7	-	99	96	-
Suriname	10	6	3	1	-	9	9	-	-	-	3	3	-
Uruguay	36	25	11	-	-	52	51	1	-	-	17	17	-
Venezuela	88	53	28	7	-	103	84	-	19	-	42	36	1
Non-quota immigrant	-	-	-	-	-	-	-	-	-	-	-	-	-
Unknown or not reported	1	-	1	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P28	C28	TOTAL 3RD PREF.	TOTAL 31 & 36	P31	P36	TOTAL 32 & 37	P32	P37	TOTAL 33 & 38	P33	P38	TOTAL 4TH PREF.
All countries	118	-	26,680	11,758	3,693	8,065	7,325	2,620	4,705	7,597	3,383	4,214	21,940
Europe	15	-	6,779	3,026	813	2,213	1,825	534	1,291	1,928	560	1,368	3,867
Albania	-	-	1	-	-	-	1	1	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	1	-	54	27	7	20	15	4	11	12	2	10	3
Belgium	-	-	158	59	19	40	37	16	21	62	25	37	7
Bulgaria	-	-	11	5	2	3	4	-	4	2	-	2	6
Czechoslovakia	-	-	44	23	13	10	19	12	7	2	1	1	13
Denmark	-	-	85	38	7	31	24	4	20	23	7	16	8
Denmark	-	-	83	36	6	30	24	4	20	23	7	16	7
Greenland	-	-	2	2	1	1	-	-	-	-	-	-	1
Estonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Finland	-	-	75	25	10	15	23	10	13	27	15	12	3
France	-	-	441	149	46	103	119	33	86	173	47	126	82
France	-	-	434	147	46	101	117	32	85	170	47	123	82
French Guiana	-	-	-	-	-	-	-	-	-	-	-	-	-
French Polynesia	-	-	4	1	-	1	2	1	1	1	-	1	-
French S. & Antarctic	-	-	-	-	-	-	-	-	-	-	-	-	-
Guadeloupe	-	-	3	1	-	1	-	-	-	2	-	2	-
Martinique	-	-	-	-	-	-	-	-	-	-	-	-	-
New Caledonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, East	-	-	8	3	2	1	4	1	3	1	-	1	-
Germany, West	1	-	507	224	60	164	138	41	97	145	40	105	78
Greece	-	-	115	80	15	65	29	6	23	6	3	3	125
Hungary	-	-	69	29	5	24	22	6	16	18	3	15	33
Iceland	-	-	7	4	2	2	2	2	-	1	1	-	4
Ireland	-	-	355	206	41	165	85	17	68	64	10	54	203
Italy	2	-	178	83	26	57	51	22	29	44	18	26	176
Latvia	-	-	2	2	1	1	-	-	-	-	-	-	1
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	-	-	2	2	1	1	-	-	-	-	-	-	4
Luxembourg	-	-	5	2	-	2	1	-	1	2	2	-	1
Malta	-	-	7	3	-	3	2	1	1	2	1	1	4
Monaco	-	-	2	-	-	-	-	-	-	2	-	2	-
Netherlands	-	-	283	138	52	86	77	19	58	68	11	57	23
Netherlands	-	-	277	134	51	83	76	18	58	67	11	56	21
Aruba	-	-	2	2	-	2	-	-	-	-	-	-	1
Netherland Antilles	-	-	4	2	1	1	1	1	-	1	-	1	1
Norway	-	-	46	22	9	13	11	5	6	13	7	6	19
Poland	2	-	224	93	34	59	77	27	50	54	21	33	1,276
Portugal	-	-	38	22	5	17	14	5	9	2	-	2	259
Portugal	-	-	21	10	1	9	9	1	8	2	-	2	233
Macau	-	-	17	12	4	8	5	4	1	-	-	-	26
Romania	-	-	65	38	10	28	20	7	13	7	5	2	81
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Soviet Union	-	-	93	44	13	31	33	16	17	16	9	7	176
Spain	-	-	101	47	11	36	27	9	18	27	4	23	48
Spain	-	-	101	47	11	36	27	9	18	27	4	23	48
Western Sahara	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	2	-	274	95	22	73	73	19	54	106	30	76	15
Switzerland	-	-	136	58	18	40	34	10	24	44	12	32	20
United Kingdom	7	-	3,287	1,459	370	1,089	853	235	618	975	282	693	1,020
United Kingdom	6	-	2,751	1,136	275	861	686	183	503	929	265	664	405
Anguilla	-	-	-	-	-	-	-	-	-	-	-	-	10
Bermuda	-	-	9	4	-	4	1	-	1	4	3	1	14
British Virgin Is	-	-	1	-	-	-	-	-	-	1	1	-	32
Cayman Islands	-	-	1	-	-	-	-	-	-	1	1	-	1
Falkland Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-	-	-	-	-	-	-
Hong Kong	1	-	521	317	94	223	165	52	113	39	11	28	552
Montserrat	-	-	1	1	1	-	-	-	-	-	-	-	6

DETAIL RUN 402

IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY

FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P28	C28	TOTAL 3RD PREF.	TOTAL 31 & 36	P31	P36	TOTAL 32 & 37	P32	P37	TOTAL 33 & 38	P33	P38	TOTAL 4TH PREF.
Pitcairn Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Helena	-	-	-	-	-	-	-	-	-	-	-	-	-
Turks & Caicos Is	-	-	3	1	-	1	1	-	1	1	1	-	-
Yugoslavia	-	-	106	46	12	34	30	6	24	30	4	26	179
Asia	40	-	13,415	6,068	1,828	4,240	3,888	1,446	2,442	3,459	1,884	1,575	7,993
Afghanistan	2	-	8	4	4	-	2	2	-	2	2	-	26
Bahrain	-	-	11	4	-	4	2	-	2	5	1	4	1
Bangladesh	-	-	153	72	17	55	58	19	39	23	6	17	34
Bhutan	-	-	-	-	-	-	-	-	-	-	-	-	-
Brunei	-	-	6	4	1	3	2	-	2	-	-	-	-
Burma	-	-	26	11	3	8	6	1	5	9	5	4	98
Cambodia	-	-	1	-	-	-	1	-	1	-	-	-	27
China, Mainland	3	-	1,286	623	197	426	412	194	218	251	134	117	2,414
Cyprus	-	-	24	14	4	10	5	3	2	5	1	4	18
India	2	-	2,134	1,085	255	830	665	259	406	384	216	168	575
Indonesia	-	-	140	79	33	46	43	23	20	18	14	4	38
Iran	3	-	1,245	592	266	326	333	163	170	320	161	159	151
Iraq	3	-	56	30	8	22	16	3	13	10	2	8	25
Israel	1	-	658	210	51	159	150	41	109	298	81	217	180
Japan	-	-	677	281	75	206	208	53	155	188	35	153	32
Jordan	1	-	43	21	4	17	9	2	7	13	7	6	175
Korea	4	-	1,038	416	89	327	325	62	263	297	72	225	747
Kuwait	1	-	28	10	1	9	2	1	1	16	13	3	49
Laos	-	-	3	3	-	3	-	-	-	-	-	-	9
Lebanon	4	-	209	134	40	94	43	15	28	32	15	17	380
Malaysia	2	-	236	155	35	120	58	13	45	23	4	19	28
Maldives	-	-	-	-	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-	-	-	-	-
Nepal	-	-	4	3	1	2	1	-	1	-	-	-	5
Oman	-	-	2	1	1	-	-	-	-	1	-	1	1
Pakistan	1	-	209	115	46	69	59	28	31	35	13	22	80
Philippines	-	-	1,767	447	413	34	365	346	19	955	936	19	2,012
Qatar	-	-	2	1	-	1	1	-	1	-	-	-	3
Saudi Arabia	-	-	27	5	2	3	1	1	-	21	6	15	16
Singapore	-	-	105	44	11	33	35	10	25	26	7	19	11
Sri Lanka	-	-	153	72	10	62	49	6	43	32	8	24	4
Syria	-	-	57	32	13	19	17	10	7	8	3	5	181
Taiwan	9	-	2,732	1,395	192	1,203	912	155	757	425	110	315	185
Thailand	4	-	99	55	22	33	30	11	19	14	5	9	64
Turkey	-	-	219	131	25	106	59	16	43	29	11	18	35
United Arab Emirates	-	-	6	-	-	-	-	-	-	6	5	1	3
Vietnam	-	-	47	18	9	9	17	7	10	12	10	2	342
Yemen (Aden)	-	-	2	-	-	-	2	2	-	-	-	-	16
Yemen (Sanaa)	-	-	2	1	-	1	-	-	-	1	1	-	28
Africa	7	-	1,639	757	274	483	444	171	273	438	175	263	275
Algeria	-	-	29	17	3	14	7	3	4	5	2	3	2
Angola	-	-	-	-	-	-	-	-	-	-	-	-	6
Benin	-	-	3	2	2	-	1	1	-	-	-	-	-
Botswana	-	-	-	-	-	-	-	-	-	-	-	-	-
Burkina	-	-	-	-	-	-	-	-	-	-	-	-	-
Burundi	-	-	1	1	-	1	-	-	-	-	-	-	1
Cameroon	-	-	7	5	4	1	1	-	1	1	1	-	37
Cape Verde	-	-	-	-	-	-	-	-	-	-	-	-	-
Central African Rep	-	-	-	-	-	-	-	-	-	-	-	-	-
Chad	-	-	1	1	-	1	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-	-	-	-	-	-
Congo	-	-	-	-	-	-	-	-	-	-	-	-	-
Djibouti	-	-	-	-	-	-	-	-	-	-	-	-	-
Egypt	-	-	175	89	36	53	46	18	28	40	26	14	79
Equatorial Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	-	-	41	21	10	11	12	6	6	8	5	3	4
Gabon	-	-	-	-	-	-	-	-	-	-	-	-	-
Gambia, The	-	-	4	3	3	-	1	1	-	-	-	-	1

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P28	C28	TOTAL 3RD PREF.	TOTAL 31 & 36	P31	P36	TOTAL 32 & 37	P32	P37	TOTAL 33 & 38	P33	P38	TOTAL 4TH PREF.
Ghana	-	-	57	30	13	17	12	8	4	15	10	5	4
Guinea	-	-	2	1	-	1	1	-	1	-	-	-	1
Guinea-Bissau	-	-	-	-	-	-	-	-	-	-	-	-	-
Ivory Coast	-	-	3	2	1	1	1	-	1	-	-	-	1
Kenya	3	-	89	43	8	35	36	8	28	10	1	9	10
Lesotho	-	-	-	-	-	-	-	-	-	-	-	-	-
Liberia	-	-	20	11	7	4	1	1	-	8	5	3	7
Libya	-	-	16	8	1	7	1	-	1	7	5	2	-
Madagascar	-	-	2	1	-	1	-	-	-	1	1	-	-
Malawi	-	-	4	3	1	2	1	1	-	-	-	-	1
Mali	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritania	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritius	-	-	6	4	1	3	2	-	2	-	-	-	6
Morocco	-	-	20	11	6	5	9	3	6	-	-	-	7
Mozambique	-	-	8	5	1	4	1	1	-	-	-	-	9
Namibia	-	-	2	1	1	-	1	1	-	2	2	-	-
Niger	-	-	-	-	-	-	-	-	-	-	-	-	-
Nigeria	3	-	264	132	81	51	75	52	23	57	39	18	4
Rwanda	-	-	-	-	-	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-	-	-	-	-	-
Senegal	-	-	2	2	1	1	-	-	-	-	-	-	-
Seychelles	-	-	-	-	-	-	-	-	-	-	-	-	-
Sierra Leone	-	-	9	7	2	5	2	-	2	-	-	-	3
Somalia	-	-	5	2	-	2	1	1	-	2	2	-	-
South Africa	1	-	684	267	65	202	180	49	131	237	58	179	58
Sudan	-	-	13	6	3	3	5	4	1	2	2	-	3
Swaziland	-	-	-	-	-	-	-	-	-	-	-	-	-
Tanzania	-	-	30	18	5	13	7	2	5	5	5	-	6
Togo	-	-	-	-	-	-	-	-	-	-	-	-	-
Tunisia	-	-	12	7	2	5	3	-	3	2	-	2	1
Uganda	-	-	43	23	11	12	14	6	8	6	-	6	4
Zaire	-	-	5	3	-	3	2	-	2	-	-	-	-
Zambia	-	-	31	9	2	7	7	2	5	15	8	7	6
Zimbabwe	-	-	51	22	4	18	14	3	11	15	3	12	14
Oceania	1	-	371	168	55	113	88	31	57	115	42	73	171
Australia	-	-	237	109	31	78	56	18	38	72	24	48	21
Australia	-	-	237	109	31	78	56	18	38	72	24	48	21
Christmas Island	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Fiji	-	-	7	3	2	1	2	2	-	2	2	-	110
Kiribati	-	-	-	-	-	-	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	-	-	123	54	20	34	28	10	18	41	16	25	14
New Zealand	-	-	123	54	20	34	28	10	18	41	16	25	14
Niue	-	-	-	-	-	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter.	-	-	-	-	-	-	-	-	-	-	-	-	-
Papua New Guinea	-	-	1	-	-	-	1	-	1	-	-	-	4
Solomon Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Tonga	-	-	2	1	1	-	1	1	-	-	-	-	11
Tuvalu	-	-	-	-	-	-	-	-	-	-	-	-	-
Vanuatu	-	-	-	-	-	-	-	-	-	-	-	-	2
Western Samoa	1	-	1	1	1	-	-	-	-	-	-	-	9
North America	38	-	3,219	1,256	559	697	731	302	429	1,232	572	660	7,742
Canada	11	-	2,089	768	306	462	462	156	306	859	353	506	730
Mexico	3	-	413	161	59	102	109	41	68	143	58	85	3,125
Carribean	18	-	552	260	165	95	119	85	34	173	137	36	2,858
Antigua-Barbuda	2	-	6	2	2	-	2	2	-	2	2	-	51
Bahamas, The	-	-	14	5	2	3	2	1	1	7	5	2	17
Barbados	-	-	35	19	10	9	8	5	3	8	7	1	83
Cuba	1	-	3	2	1	1	1	-	1	-	-	-	808
Dominica	-	-	18	4	4	-	4	4	-	10	9	1	13
Dominican Republic	3	-	5	3	3	-	1	1	-	1	1	-	146

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P28	C28	TOTAL 3RD PREF.	TOTAL 31 & 36	P31	P36	TOTAL 32 & 37	P32	P37	TOTAL 33 & 38	P33	P38	TOTAL 4TH PREF.
Grenada	-	-	8	4	4	-	1	1	-	3	3	-	13
Haiti	2	-	12	8	8	-	4	3	1	-	-	-	99
Jamaica	4	-	364	173	108	65	75	54	21	116	93	23	1,134
St. Christopher-Nevis	6	-	6	3	3	-	1	1	-	2	2	-	22
St. Lucia	-	-	4	3	1	2	1	1	-	-	-	-	7
St. Vincent & Grenadines	-	-	15	7	6	1	3	2	1	5	5	-	51
Trinidad & Tobago	-	-	62	27	13	14	16	10	6	19	10	9	414
Central America	6	-	165	67	29	38	41	20	21	57	24	33	1,029
Belize	2	-	3	3	2	1	-	-	-	-	-	-	68
Costa Rica	-	-	14	2	2	-	4	3	1	8	5	3	72
El Salvador	-	-	34	14	8	6	10	7	3	10	6	4	173
Guatemala	1	-	31	15	5	10	7	4	3	9	5	4	177
Honduras	1	-	16	6	1	5	4	-	4	6	1	5	172
Nicaragua	2	-	55	21	7	14	15	6	9	19	5	14	227
Panama	-	-	12	6	4	2	1	-	1	5	2	3	140
South America	17	-	1,257	483	164	319	349	136	213	425	150	275	1,892
Argentina	3	-	242	94	27	67	73	24	49	75	26	49	177
Bolivia	-	-	12	6	3	3	3	2	1	3	1	2	50
Brazil	-	-	230	72	19	53	61	17	44	97	30	67	90
Chile	-	-	119	44	10	34	36	10	26	39	8	31	124
Colombia	4	-	179	67	21	46	54	18	36	58	8	50	438
Ecuador	-	-	18	7	4	3	5	2	3	6	2	4	147
Guyana	2	-	122	51	28	23	29	22	7	42	33	9	573
Paraguay	-	-	3	2	1	1	1	-	1	-	-	-	7
Peru	3	-	147	68	22	46	34	15	19	45	22	23	199
Suriname	-	-	4	2	-	2	1	-	1	1	-	1	6
Uruguay	-	-	30	15	6	9	10	4	6	5	1	4	19
Venezuela	5	-	151	55	23	32	42	22	20	54	19	35	62
Non-quota immigrant	-	-	-	-	-	-	-	-	-	-	-	-	-
Unknown or not reported	-	-	-	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 41 & 46	P41	A41	C41	P46	A46	C46	TOTAL 42 & 47	P42	A42	C42	P47	A47
All countries	6,227	5,541	11	10	662	-	3	5,168	4,844	6	21	292	-
Europe	1,216	974	-	3	238	-	1	972	870	-	4	95	-
Albania	-	-	-	-	-	-	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	2	2	-	-	-	-	-	1	-	-	-	-	-
Belgium	3	2	-	-	1	-	-	1	1	-	-	-	-
Bulgaria	4	1	-	-	3	-	-	2	2	-	-	-	-
Czechoslovakia	7	3	-	-	4	-	-	3	1	-	-	2	-
Denmark	1	1	-	-	-	-	-	4	2	-	-	2	-
Denmark	1	1	-	-	-	-	-	3	2	-	-	1	-
Greenland	-	-	-	-	-	-	-	1	-	-	-	1	-
Estonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Finland	1	1	-	-	-	-	-	1	1	-	-	-	-
France	10	7	-	-	3	-	-	14	10	-	-	4	-
France	10	7	-	-	3	-	-	14	10	-	-	4	-
French Guiana	-	-	-	-	-	-	-	-	-	-	-	-	-
French Polynesia	-	-	-	-	-	-	-	-	-	-	-	-	-
French S. & Antarctic	-	-	-	-	-	-	-	-	-	-	-	-	-
Guadeloupe	-	-	-	-	-	-	-	-	-	-	-	-	-
Martinique	-	-	-	-	-	-	-	-	-	-	-	-	-
New Caledonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, East	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, West	27	17	-	2	8	-	-	20	14	-	-	6	-
Greece	38	32	-	-	6	-	-	39	34	-	-	5	-
Hungary	12	5	-	-	7	-	-	9	5	-	-	4	-
Iceland	1	1	-	-	-	-	-	1	1	-	-	-	-
Ireland	81	75	-	1	5	-	-	56	49	-	1	5	-
Italy	61	42	-	-	19	-	-	49	35	-	-	14	-
Latvia	-	-	-	-	-	-	-	1	1	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	1	1	-	-	-	-	-	1	1	-	-	-	-
Luxembourg	-	-	-	-	-	-	-	1	-	-	-	1	-
Malta	2	2	-	-	-	-	-	1	1	-	-	-	-
Monaco	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	7	6	-	-	1	-	-	7	6	-	1	-	-
Netherlands	6	5	-	-	1	-	-	6	5	-	1	-	-
Aruba	1	1	-	-	-	-	-	-	-	-	-	-	-
Netherland Antilles	-	-	-	-	-	-	-	1	1	-	-	-	-
Norway	7	6	-	-	1	-	-	3	1	-	2	-	-
Poland	472	346	-	-	126	-	-	302	281	-	-	20	-
Portugal	78	75	-	-	3	-	-	68	66	-	-	2	-
Portugal	70	67	-	-	3	-	-	59	57	-	-	2	-
Macau	8	8	-	-	-	-	-	9	9	-	-	-	-
Romania	28	25	-	-	3	-	-	28	26	-	-	2	-
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Soviet Union	60	53	-	-	7	-	-	53	51	-	-	2	-
Spain	14	11	-	-	3	-	-	15	12	-	-	3	-
Spain	14	11	-	-	3	-	-	15	12	-	-	3	-
Western Sahara	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	3	2	-	-	1	-	-	3	3	-	-	-	-
Switzerland	5	2	-	-	3	-	-	5	3	-	-	2	-
United Kingdom	234	206	-	-	28	-	-	230	212	-	-	18	-
United Kingdom	94	69	-	-	25	-	-	94	78	-	-	16	-
Anguilla	2	2	-	-	-	-	-	4	4	-	-	-	-
Bermuda	5	5	-	-	-	-	-	2	2	-	-	-	-
British Virgin Is	8	6	-	-	2	-	-	6	6	-	-	-	-
Cayman Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Falkland Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-	-	-	-	-	-	-
Hong Kong	124	123	-	-	1	-	-	123	121	-	-	2	-
Montserrat	1	1	-	-	-	-	-	1	1	-	-	-	-
Pitcairn Islands	-	-	-	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 41 & 46	P41	A41	C41	P46	A46	C46	TOTAL 42 & 47	P42	A42	C42	P47	A47
St. Helena	-	-	-	-	-	-	-	-	-	-	-	-	-
Turks & Caicos Is.	-	-	-	-	-	-	-	-	-	-	-	-	-
Yugoslavia	57	50	-	-	6	-	1	54	51	-	-	3	-
Asia	2,169	1,979	11	5	174	-	-	1,875	1,779	6	5	84	-
Afghanistan	7	5	-	-	2	-	-	3	2	-	-	1	-
Bahrain	-	-	-	-	-	-	-	-	-	-	-	-	-
Bangladesh	9	8	-	-	1	-	-	7	7	-	-	-	-
Bhutan	-	-	-	-	-	-	-	-	-	-	-	-	-
Brunei	-	-	-	-	-	-	-	-	-	-	-	-	-
Burma	26	25	-	-	1	-	-	21	21	-	-	-	-
Cambodia	9	8	-	-	1	-	-	7	6	-	-	1	-
China, Mainland	696	660	-	-	36	-	-	626	618	-	-	8	-
Cyprus	8	7	-	-	1	-	-	4	3	-	-	1	-
India	160	148	-	-	12	-	-	145	140	-	-	5	-
Indonesia	13	13	-	-	-	-	-	13	13	-	-	-	-
Iran	44	35	-	-	9	-	-	50	42	-	1	7	-
Iraq	14	13	-	-	1	-	-	7	6	-	-	1	-
Israel	48	31	-	-	17	-	-	34	25	-	-	9	-
Japan	10	9	-	-	1	-	-	11	9	-	-	2	-
Jordan	55	45	-	4	6	-	-	36	32	-	4	-	-
Korea	211	187	11	-	13	-	-	188	174	6	-	8	-
Kuwait	4	4	-	-	-	-	-	2	2	-	-	-	-
Laos	4	4	-	-	-	-	-	4	4	-	-	-	-
Lebanon	109	85	-	-	24	-	-	86	73	-	-	13	-
Malaysia	6	6	-	-	-	-	-	8	8	-	-	-	-
Maldives	-	-	-	-	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-	-	-	-	-
Nepal	1	1	-	-	-	-	-	1	1	-	-	-	-
Oman	-	-	-	-	-	-	-	-	-	-	-	-	-
Pakistan	28	24	-	-	4	-	-	24	20	-	-	3	-
Philippines	401	395	-	1	5	-	-	393	388	-	-	5	-
Qatar	-	-	-	-	-	-	-	-	-	-	-	-	-
Saudi Arabia	1	1	-	-	-	-	-	1	1	-	-	-	-
Singapore	3	3	-	-	-	-	-	3	3	-	-	-	-
Sri Lanka	1	1	-	-	-	-	-	3	3	-	-	-	-
Syria	56	46	-	-	10	-	-	44	39	-	-	5	-
Taiwan	45	37	-	-	8	-	-	41	35	-	-	6	-
Thailand	17	15	-	-	2	-	-	18	17	-	-	1	-
Turkey	12	8	-	-	4	-	-	11	9	-	-	2	-
United Arab Emirates	-	-	-	-	-	-	-	-	-	-	-	-	-
Vietnam	128	118	-	-	10	-	-	83	77	-	-	6	-
Yemen (Aden)	16	12	-	-	4	-	-	-	-	-	-	-	-
Yemen (Sanaa)	27	25	-	-	2	-	-	1	1	-	-	-	-
Africa	94	82	-	1	11	-	-	77	64	-	4	9	-
Algeria	1	1	-	-	-	-	-	1	1	-	-	-	-
Angola	3	3	-	-	-	-	-	2	2	-	-	-	-
Benin	-	-	-	-	-	-	-	-	-	-	-	-	-
Botswana	-	-	-	-	-	-	-	-	-	-	-	-	-
Burkina	-	-	-	-	-	-	-	-	-	-	-	-	-
Burundi	-	-	-	-	-	-	-	-	-	-	-	-	-
Cameroon	-	-	-	-	-	-	-	-	-	-	-	-	-
Cape Verde	14	13	-	-	1	-	-	10	9	-	-	1	-
Central African Rep	-	-	-	-	-	-	-	-	-	-	-	-	-
Chad	-	-	-	-	-	-	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-	-	-	-	-	-
Congo	-	-	-	-	-	-	-	-	-	-	-	-	-
Djibouti	-	-	-	-	-	-	-	-	-	-	-	-	-
Egypt	25	21	-	-	4	-	-	24	20	-	-	4	-
Equatorial Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	3	3	-	-	-	-	-	1	1	-	-	-	-
Gabon	-	-	-	-	-	-	-	-	-	-	-	-	-
Gambia, The	1	1	-	-	-	-	-	-	-	-	-	-	-
Ghana	1	-	-	-	1	-	-	-	-	-	-	-	-
Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 41 & 46	P41	A41	C41	P46	A46	C46	TOTAL 42 & 47	P42	A42	C42	P47	A47
Guinea-Bissau	-	-	-	-	-	-	-	-	-	-	-	-	-
Ivory Coast	-	-	-	-	-	-	-	-	-	-	-	-	-
Kenya	3	3	-	-	-	-	-	4	3	-	-	1	-
Lesotho	-	-	-	-	-	-	-	-	-	-	-	-	-
Liberia	3	2	-	-	1	-	-	1	-	-	-	1	-
Libya	-	-	-	-	-	-	-	-	-	-	-	-	-
Madagascar	-	-	-	-	-	-	-	-	-	-	-	-	-
Malawi	-	-	-	-	-	-	-	-	-	-	-	-	-
Mali	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritania	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritius	1	1	-	-	-	-	-	2	2	-	-	-	-
Morocco	4	2	-	1	1	-	-	3	1	-	1	1	-
Mozambique	2	2	-	-	-	-	-	2	2	-	-	-	-
Namibia	-	-	-	-	-	-	-	-	-	-	-	-	-
Niger	-	-	-	-	-	-	-	-	-	-	-	-	-
Nigeria	3	1	-	-	2	-	-	-	-	-	-	-	-
Rwanda	-	-	-	-	-	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-	-	-	-	-	-
Senegal	-	-	-	-	-	-	-	-	-	-	-	-	-
Seychelles	-	-	-	-	-	-	-	-	-	-	-	-	-
Sierra Leone	1	1	-	-	-	-	-	1	1	-	-	-	-
Somalia	-	-	-	-	-	-	-	-	-	-	-	-	-
South Africa	18	17	-	-	1	-	-	17	13	-	3	1	-
Sudan	1	1	-	-	-	-	-	2	2	-	-	-	-
Swaziland	-	-	-	-	-	-	-	-	-	-	-	-	-
Tanzania	3	3	-	-	-	-	-	1	1	-	-	-	-
Togo	-	-	-	-	-	-	-	-	-	-	-	-	-
Tunisia	-	-	-	-	-	-	-	1	1	-	-	-	-
Uganda	2	2	-	-	-	-	-	1	1	-	-	-	-
Zaire	-	-	-	-	-	-	-	-	-	-	-	-	-
Zambia	1	1	-	-	-	-	-	-	-	-	-	-	-
Zimbabwe	4	4	-	-	-	-	-	4	4	-	-	-	-
Oceania	42	36	-	-	6	-	-	39	36	-	-	3	-
Australia	7	6	-	-	1	-	-	7	6	-	-	1	-
Australia	7	6	-	-	1	-	-	7	6	-	-	1	-
Christmas Island	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Fiji	21	20	-	-	1	-	-	24	23	-	-	1	-
Kiribati	-	-	-	-	-	-	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	5	4	-	-	1	-	-	2	2	-	-	-	-
New Zealand	5	4	-	-	1	-	-	2	2	-	-	-	-
Niue	-	-	-	-	-	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter	-	-	-	-	-	-	-	-	-	-	-	-	-
Papua New Guinea	1	1	-	-	-	-	-	-	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Tonga	5	4	-	-	1	-	-	4	4	-	-	-	-
Tuvalu	-	-	-	-	-	-	-	-	-	-	-	-	-
Vanuatu	-	-	-	-	-	-	-	-	-	-	-	-	-
Western Samoa	3	1	-	-	2	-	-	2	1	-	-	1	-
North America	2,182	2,005	-	1	175	-	1	1,763	1,690	-	8	65	-
Canada	208	162	-	-	46	-	-	153	130	-	2	21	-
Mexico	770	765	-	1	4	-	-	696	691	-	2	3	-
Carribean	888	798	-	-	89	-	1	685	659	-	1	25	-
Antigua-Barbuda	11	10	-	-	1	-	-	11	11	-	-	-	-
Bahamas, The	5	4	-	-	1	-	-	1	-	-	-	1	-
Barbados	28	24	-	-	3	-	1	19	18	-	-	1	-
Cuba	283	274	-	-	9	-	-	226	224	-	-	2	-
Dominica	2	2	-	-	-	-	-	5	4	-	-	1	-
Dominican Republic	42	41	-	-	1	-	-	42	40	-	-	2	-
Grenada	6	6	-	-	-	-	-	2	2	-	-	-	-
Haiti	32	25	-	-	7	-	-	20	19	-	-	1	-
Jamaica	337	294	-	-	43	-	-	250	239	-	1	10	-

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 41 & 46	P41	A41	C41	P46	A46	C46	TOTAL 42 & 47	P42	A42	C42	P47	A47
St. Christopher-Nevis	11	11	-	-	-	-	-	6	6	-	-	-	-
St. Lucia	4	4	-	-	-	-	-	1	1	-	-	-	-
St. Vincent & Grenadines	9	9	-	-	-	-	-	11	11	-	-	-	-
Trinidad & Tobago	118	94	-	-	24	-	-	91	84	-	-	7	-
Central America	316	280	-	-	36	-	-	229	210	-	3	16	-
Belize	22	20	-	-	2	-	-	11	11	-	-	-	-
Costa Rica	27	24	-	-	3	-	-	17	16	-	-	1	-
El Salvador	57	56	-	-	1	-	-	42	41	-	-	1	-
Guatemala	54	49	-	-	5	-	-	41	41	-	-	-	-
Honduras	49	42	-	-	7	-	-	39	37	-	-	2	-
Nicaragua	61	49	-	-	12	-	-	52	41	-	1	10	-
Panama	46	40	-	-	6	-	-	27	23	-	2	2	-
South America	524	465	-	-	58	-	1	442	405	-	-	36	-
Argentina	47	40	-	-	7	-	-	45	40	-	-	5	-
Bolivia	16	15	-	-	1	-	-	9	9	-	-	-	-
Brazil	19	15	-	-	4	-	-	20	15	-	-	5	-
Chile	36	32	-	-	4	-	-	38	36	-	-	2	-
Colombia	137	121	-	-	15	-	1	93	84	-	-	8	-
Ecuador	51	44	-	-	7	-	-	33	28	-	-	5	-
Guyana	146	137	-	-	9	-	-	136	132	-	-	4	-
Paraguay	2	2	-	-	-	-	-	2	2	-	-	-	-
Peru	55	49	-	-	6	-	-	49	47	-	-	2	-
Suriname	1	1	-	-	-	-	-	-	-	-	-	-	-
Uruguay	6	5	-	-	1	-	-	6	6	-	-	-	-
Venezuela	8	4	-	-	4	-	-	11	6	-	-	5	-
Non-quota immigrant	-	-	-	-	-	-	-	-	-	-	-	-	-
Unknown or not reported	-	-	-	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	C47	TOTAL 43 & 48	P43	A43	C43	P48	A48	C48
All countries	5	10,545	10,056	2	12	473	-	2
Europe	3	1,679	1,555	-	-	124	-	-
Albania	-	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-
Austria	1	-	-	-	-	-	-	-
Belgium	-	3	3	-	-	-	-	-
Bulgaria	-	-	-	-	-	-	-	-
Czechoslovakia	-	3	2	-	-	1	-	-
Denmark	-	3	2	-	-	1	-	-
Denmark	-	3	2	-	-	1	-	-
Greenland	-	-	-	-	-	-	-	-
Estonia	-	-	-	-	-	-	-	-
Finland	-	1	1	-	-	-	-	-
France	-	58	43	-	-	15	-	-
France	-	58	43	-	-	15	-	-
French Guiana	-	-	-	-	-	-	-	-
French Polynesia	-	-	-	-	-	-	-	-
French S. & Antarctic	-	-	-	-	-	-	-	-
Guadeloupe	-	-	-	-	-	-	-	-
Martinique	-	-	-	-	-	-	-	-
New Caledonia	-	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-
Germany, East	-	-	-	-	-	-	-	-
Germany, West	-	31	26	-	-	5	-	-
Greece	-	48	43	-	-	5	-	-
Hungary	-	12	5	-	-	7	-	-
Iceland	-	2	2	-	-	-	-	-
Ireland	1	66	62	-	-	4	-	-
Italy	-	66	55	-	-	11	-	-
Latvia	-	-	-	-	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-	-
Lithuania	-	2	2	-	-	-	-	-
Luxembourg	-	-	-	-	-	-	-	-
Malta	-	1	1	-	-	-	-	-
Monaco	-	-	-	-	-	-	-	-
Netherlands	-	9	9	-	-	-	-	-
Netherlands	-	9	9	-	-	-	-	-
Aruba	-	-	-	-	-	-	-	-
Netherland Antilles	-	-	-	-	-	-	-	-
Norway	-	9	9	-	-	-	-	-
Poland	1	502	464	-	-	38	-	-
Portugal	-	113	113	-	-	-	-	-
Portugal	-	104	104	-	-	-	-	-
Macau	-	9	9	-	-	-	-	-
Romania	-	25	25	-	-	-	-	-
San Marino	-	-	-	-	-	-	-	-
Soviet Union	-	63	61	-	-	2	-	-
Spain	-	19	14	-	-	5	-	-
Spain	-	19	14	-	-	5	-	-
Western Sahara	-	-	-	-	-	-	-	-
Sweden	-	9	7	-	-	2	-	-
Switzerland	-	10	5	-	-	5	-	-
United Kingdom	-	556	535	-	-	21	-	-
United Kingdom	-	217	196	-	-	21	-	-
Anguilla	-	4	4	-	-	-	-	-
Bermuda	-	7	7	-	-	-	-	-
British Virgin Is	-	18	18	-	-	-	-	-
Cayman Islands	-	1	1	-	-	-	-	-
Falkland Islands	-	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-	-
Hong Kong	-	305	305	-	-	-	-	-
Montserrat	-	4	4	-	-	-	-	-
Pitcairn Islands	-	-	-	-	-	-	-	-

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	C47	TOTAL 43 & 48	P43	A43	C43	P48	A48	C48
St. Helena	-	-	-	-	-	-	-	-
Turks & Caicos Is.	-	-	-	-	-	-	-	-
Yugoslavia	-	68	66	-	-	2	-	-
Asia	1	3,949	3,803	2	1	143	-	-
Afghanistan	-	16	13	-	-	3	-	-
Bahrain	-	1	1	-	-	-	-	-
Bangladesh	-	18	18	-	-	-	-	-
Bhutan	-	-	-	-	-	-	-	-
Brunei	-	-	-	-	-	-	-	-
Burma	-	51	51	-	-	-	-	-
Cambodia	-	11	11	-	-	-	-	-
China, Mainland	-	1,092	1,084	-	-	8	-	-
Cyprus	-	6	5	-	-	1	-	-
India	-	270	261	-	-	9	-	-
Indonesia	-	12	11	-	-	1	-	-
Iran	-	57	47	-	1	9	-	-
Iraq	-	4	2	-	-	2	-	-
Israel	-	98	66	-	-	32	-	-
Japan	-	11	10	-	-	1	-	-
Jordan	-	84	80	-	-	4	-	-
Korea	-	348	338	2	-	8	-	-
Kuwait	-	43	40	-	-	3	-	-
Laos	-	1	1	-	-	-	-	-
Lebanon	-	185	163	-	-	22	-	-
Malaysia	-	14	14	-	-	-	-	-
Maldives	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-
Nepal	-	3	3	-	-	-	-	-
Oman	-	1	1	-	-	-	-	-
Pakistan	1	28	25	-	-	3	-	-
Philippines	-	1,218	1,211	-	-	7	-	-
Qatar	-	3	3	-	-	-	-	-
Saudi Arabia	-	14	11	-	-	3	-	-
Singapore	-	5	5	-	-	-	-	-
Sri Lanka	-	-	-	-	-	-	-	-
Syria	-	81	74	-	-	7	-	-
Taiwan	-	99	94	-	-	5	-	-
Thailand	-	29	28	-	-	1	-	-
Turkey	-	12	8	-	-	4	-	-
United Arab Emirates	-	3	3	-	-	-	-	-
Vietnam	-	131	121	-	-	10	-	-
Yemen (Aden)	-	-	-	-	-	-	-	-
Yemen (Sanaa)	-	-	-	-	-	-	-	-
Africa	-	104	91	-	2	11	-	-
Algeria	-	-	-	-	-	-	-	-
Angola	-	1	1	-	-	-	-	-
Benin	-	-	-	-	-	-	-	-
Botswana	-	-	-	-	-	-	-	-
Burkina	-	-	-	-	-	-	-	-
Burundi	-	-	-	-	-	-	-	-
Cameroon	-	1	1	-	-	-	-	-
Cape Verde	-	13	12	-	-	1	-	-
Central African Rep	-	-	-	-	-	-	-	-
Chad	-	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-
Congo	-	-	-	-	-	-	-	-
Djibouti	-	-	-	-	-	-	-	-
Egypt	-	30	24	-	-	6	-	-
Equatorial Guinea	-	-	-	-	-	-	-	-
Ethiopia	-	-	-	-	-	-	-	-
Gabon	-	-	-	-	-	-	-	-
Gambia, The	-	-	-	-	-	-	-	-
Ghana	-	3	3	-	-	-	-	-
Guinea	-	1	-	-	-	1	-	-

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	C47	TOTAL 43 & 48	P43	A43	C43	P48	A48	C48
Guinea-Bissau	-	-	-	-	-	-	-	-
Ivory Coast	-	1	1	-	-	-	-	-
Kenya	-	3	3	-	-	-	-	-
Lesotho	-	-	-	-	-	-	-	-
Liberia	-	3	1	-	-	2	-	-
Libya	-	-	-	-	-	-	-	-
Madagascar	-	-	-	-	-	-	-	-
Malawi	-	1	1	-	-	-	-	-
Mali	-	-	-	-	-	-	-	-
Mauritania	-	-	-	-	-	-	-	-
Mauritius	-	3	3	-	-	-	-	-
Morocco	-	-	-	-	-	-	-	-
Mozambique	-	5	5	-	-	-	-	-
Namibia	-	-	-	-	-	-	-	-
Niger	-	-	-	-	-	-	-	-
Nigeria	-	1	1	-	-	-	-	-
Rwanda	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-
Senegal	-	-	-	-	-	-	-	-
Seychelles	-	-	-	-	-	-	-	-
Sierra Leone	-	1	1	-	-	-	-	-
Somalia	-	-	-	-	-	-	-	-
South Africa	-	23	20	-	2	1	-	-
Sudan	-	-	-	-	-	-	-	-
Swaziland	-	-	-	-	-	-	-	-
Tanzania	-	2	2	-	-	-	-	-
Togo	-	-	-	-	-	-	-	-
Tunisia	-	-	-	-	-	-	-	-
Uganda	-	1	1	-	-	-	-	-
Zaire	-	-	-	-	-	-	-	-
Zambia	-	5	5	-	-	-	-	-
Zimbabwe	-	6	6	-	-	-	-	-
Oceania	-	80	80	-	-	10	-	-
Australia	-	7	6	-	-	1	-	-
Australia	-	7	6	-	-	1	-	-
Christmas Island	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-
Fiji	-	65	61	-	-	4	-	-
Kiribati	-	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-	-
New Zealand	-	7	2	-	-	5	-	-
New Zealand	-	7	2	-	-	5	-	-
Niue	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter.	-	-	-	-	-	-	-	-
Papua New Guinea	-	3	3	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-	-
Tonga	-	2	2	-	-	-	-	-
Tuvalu	-	-	-	-	-	-	-	-
Vanuatu	-	2	2	-	-	-	-	-
Western Samoa	-	4	4	-	-	-	-	-
North America	-	3,797	3,673	-	9	115	-	-
Canada	-	369	320	-	3	46	-	-
Mexico	-	1,659	1,657	-	-	2	-	-
Carribean	-	1,285	1,243	-	2	40	-	-
Antigua-Barbuda	-	29	29	-	-	-	-	-
Bahamas, The	-	11	5	-	-	6	-	-
Barbados	-	36	34	-	-	2	-	-
Cuba	-	299	299	-	-	-	-	-
Dominica	-	6	6	-	-	-	-	-
Dominican Republic	-	62	62	-	-	-	-	-
Grenada	-	5	5	-	-	-	-	-
Haiti	-	47	43	-	-	4	-	-
Jamaica	-	547	529	-	2	16	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	C47	TOTAL 43 & 48	P43	A43	C43	P48	A48	C48
St. Christopher-Nevis	-	5	5	-	-	-	-	-
St. Lucia	-	2	2	-	-	-	-	-
St. Vincent & Grenadines	-	31	31	-	-	-	-	-
Trinidad & Tobago	-	205	193	-	-	12	-	-
Central America	-	484	453	-	4	27	-	-
Belize	-	35	33	-	-	2	-	-
Costa Rica	-	28	24	-	-	4	-	-
El Salvador	-	74	73	-	-	1	-	-
Guatemala	-	82	80	-	-	2	-	-
Honduras	-	84	80	-	-	4	-	-
Nicaragua	-	114	97	-	4	13	-	-
Panama	-	67	66	-	-	1	-	-
South America	1	926	854	-	-	70	-	2
Argentina	-	85	73	-	-	12	-	-
Bolivia	-	25	25	-	-	-	-	-
Brazil	-	51	44	-	-	7	-	-
Chile	-	50	46	-	-	4	-	-
Colombia	1	208	184	-	-	22	-	2
Ecuador	-	63	59	-	-	4	-	-
Guyana	-	291	284	-	-	7	-	-
Paraguay	-	3	3	-	-	-	-	-
Peru	-	95	90	-	-	5	-	-
Suriname	-	5	5	-	-	-	-	-
Uruguay	-	7	7	-	-	-	-	-
Venezuela	-	43	34	-	-	9	-	-
Non-quota immigrant	-	-	-	-	-	-	-	-
Unknown or not reported	-	-	-	-	-	-	-	-

SOURCE: STATISTICAL ANALYSIS BRANCH, U.S. IMMIGRATION AND NATURALIZATION SERVICE

- 1 -

DETAIL RUN 402

IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988

FOREIGN STATE OF CHARGEABILITY	TOTAL 5TH PREF.	TOTAL 51 & 56	P51	P56	TOTAL 52 & 57	P52	P57	TOTAL 53 & 58	P53	P58	TOTAL 6TH PREF.	TOTAL 61 & 66	P61
All countries	63,948	21,489	21,146	343	14,497	14,336	161	27,962	27,717	245	26,927	10,696	9,382
Europe	5,065	1,398	1,344	54	1,063	1,045	18	2,604	2,575	29	3,743	1,548	1,201
Albania	1	-	-	-	1	1	-	-	-	-	1	1	1
Andorra	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	13	4	3	1	3	2	1	6	6	-	20	11	9
Belgium	3	-	-	-	1	1	-	2	2	-	21	10	6
Bulgaria	2	1	-	1	1	1	-	-	-	-	6	3	3
Czechoslovakia	4	3	2	1	1	1	-	-	-	-	16	10	7
Denmark	7	1	1	-	1	1	-	5	5	-	25	12	10
Denmark	7	1	1	-	1	1	-	5	5	-	25	12	10
Greenland	-	-	-	-	-	-	-	-	-	-	-	-	-
Estonia	-	-	-	-	-	-	-	-	-	-	1	1	1
Finland	4	1	1	-	1	1	-	2	2	-	15	9	8
France	74	16	16	-	8	8	-	50	48	2	215	100	76
France	55	10	10	-	7	7	-	38	36	2	213	99	75
French Guiana	-	-	-	-	-	-	-	-	-	-	-	-	-
French Polynesia	1	1	1	-	-	-	-	-	-	-	-	-	-
French S. & Antarctic	-	-	-	-	-	-	-	-	-	-	-	-	-
Guadeloupe	15	3	3	-	1	1	-	11	11	-	2	1	1
Martinique	3	2	2	-	-	-	-	1	1	-	-	-	-
New Caledonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, East	3	-	-	-	-	-	-	3	2	1	7	5	5
Germany, West	84	25	22	3	14	11	3	45	43	2	210	99	56
Greece	284	121	112	9	68	67	1	95	92	3	51	23	19
Hungary	17	8	6	2	3	2	1	6	4	2	22	12	8
Iceland	-	-	-	-	-	-	-	-	-	-	10	5	5
Ireland	90	39	38	1	20	20	-	31	31	-	98	54	52
Italy	199	76	73	3	48	48	-	75	75	-	156	82	63
Latvia	-	-	-	-	-	-	-	-	-	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	-	-	-	-	-	-	-	-	-	-	-	-	-
Luxembourg	5	2	2	-	2	2	-	1	1	-	-	-	-
Malta	13	5	4	1	3	3	-	5	5	-	5	2	2
Monaco	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	39	18	18	-	8	7	1	13	13	-	69	34	22
Netherlands	27	9	9	-	7	6	1	11	11	-	62	30	18
Aruba	11	8	8	-	1	1	-	2	2	-	3	3	3
Netherland Antilles	1	1	1	-	-	-	-	-	-	-	4	1	1
Norway	7	3	3	-	1	1	-	3	3	-	14	7	4
Poland	600	205	184	21	153	150	3	242	237	5	143	71	63
Portugal	815	240	239	1	201	200	1	374	372	2	540	180	175
Portugal	714	210	209	1	178	178	-	326	326	-	518	171	168
Macau	101	30	30	-	23	22	1	48	46	2	22	9	7
Romania	29	11	11	-	10	10	-	8	8	-	32	17	13
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Soviet Union	33	14	14	-	19	19	-	-	-	-	92	36	29
Spain	37	12	12	-	14	13	1	11	11	-	182	70	61
Spain	37	12	12	-	14	13	1	11	11	-	182	70	61
Western Sahara	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	8	2	2	-	2	2	-	4	4	-	69	33	26
Switzerland	12	6	6	-	3	3	-	3	2	1	56	40	29
United Kingdom	2,450	501	493	8	420	416	4	1,529	1,520	9	1,634	605	435
United Kingdom	690	94	89	5	73	71	2	523	518	5	1,040	417	308
Anguilla	2	2	2	-	-	-	-	-	-	-	-	-	-
Bermuda	6	-	-	-	1	1	-	5	5	-	6	-	-
British Virgin Is	18	5	5	-	4	4	-	9	9	-	6	-	-
Cayman Islands	3	1	1	-	1	1	-	1	1	-	1	-	-
Falkland Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibraltar	-	-	-	-	-	-	-	-	-	-	-	-	-
Hong Kong	1,722	397	394	3	338	336	2	987	983	4	554	177	116
Montserrat	6	1	1	-	1	1	-	4	4	-	18	8	8

- 2 -

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 5TH PREF.	TOTAL 51 & 56	P51	P56	TOTAL 52 & 57	P52	P57	TOTAL 53 & 58	P53	P58	TOTAL 6TH PREF.	TOTAL 61 & 66	P61
Pitcairn Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Helena	-	-	-	-	-	-	-	-	-	-	-	-	-
Turks & Caicos Is.	3	1	1	-	2	2	-	-	-	-	9	3	3
Yugoslavia	232	84	82	2	57	55	2	91	89	2	33	16	13
Asia	40,188	13,020	12,817	203	9,601	9,495	106	17,567	17,398	169	10,561	4,375	3,657
Afghanistan	14	8	7	1	4	4	-	2	2	-	6	3	3
Bahrain	5	-	-	-	-	-	-	5	5	-	-	-	-
Bangladesh	238	103	102	1	47	47	-	88	88	-	26	12	12
Bhutan	-	-	-	-	-	-	-	-	-	-	1	1	1
Brunei	2	-	-	-	1	1	-	1	1	-	-	-	-
Burma	304	114	114	-	60	60	-	130	130	-	10	7	4
Cambodia	37	19	19	-	9	9	-	9	9	-	4	3	3
China, Mainland	9,167	3,162	3,137	25	2,511	2,503	8	3,494	3,488	6	1,622	674	602
Cyprus	21	10	9	1	6	6	-	5	5	-	12	6	6
India	9,019	2,914	2,897	17	2,300	2,291	9	3,805	3,792	13	560	250	194
Indonesia	147	59	56	3	41	40	1	47	46	1	83	36	32
Iran	601	235	206	29	170	152	18	196	175	21	476	194	165
Iraq	107	46	38	8	25	22	3	36	30	6	64	25	21
Israel	257	98	94	4	57	55	2	102	97	5	357	119	103
Japan	125	60	60	-	27	27	-	38	38	-	736	487	449
Jordan	568	190	183	7	100	98	2	278	277	1	27	6	4
Korea	9,377	2,741	2,699	42	2,183	2,155	28	4,453	4,415	38	1,992	629	560
Kuwait	91	7	6	1	3	2	1	81	78	3	24	2	2
Laos	17	7	7	-	4	3	1	6	6	-	2	1	-
Lebanon	591	177	159	18	118	112	6	296	278	18	303	121	111
Malaysia	116	41	40	1	32	32	-	43	43	-	80	36	30
Maldives	-	-	-	-	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-	-	-	-	-
Nepal	15	7	7	-	2	2	-	6	6	-	4	2	2
Oman	2	-	-	-	-	-	-	2	2	-	-	-	-
Pakistan	1,561	555	554	1	344	343	1	662	660	2	152	56	40
Philippines	4,454	1,198	1,186	12	922	917	5	2,334	2,325	9	1,961	983	827
Qatar	6	-	-	-	-	-	-	6	6	-	1	-	-
Saudi Arabia	36	2	2	-	2	2	-	32	31	1	10	2	2
Singapore	55	9	9	-	9	9	-	37	37	-	26	12	8
Sri Lanka	78	31	28	3	21	21	-	26	26	-	99	39	35
Syria	390	152	150	2	92	92	-	146	146	-	146	52	48
Taiwan	1,280	367	348	19	272	253	19	641	600	41	1,477	479	264
Thailand	353	168	167	1	64	64	-	121	120	1	150	73	72
Turkey	131	54	52	2	37	36	1	40	40	-	114	51	43
United Arab Emirates	54	2	2	-	-	-	-	52	51	1	5	-	-
Vietnam	951	468	464	4	137	136	1	346	344	2	29	12	12
Yemen (Aden)	5	4	3	1	1	1	-	-	-	-	1	1	1
Yemen (Sanaa)	13	12	12	-	-	-	-	1	1	-	1	1	1
Africa	1,429	560	547	13	352	349	3	517	510	7	635	269	227
Algeria	2	2	2	-	-	-	-	-	-	-	9	3	2
Angola	6	-	-	-	-	-	-	6	6	-	9	5	5
Benin	-	-	-	-	-	-	-	-	-	-	1	-	-
Botswana	-	-	-	-	-	-	-	-	-	-	-	-	-
Burkina	-	-	-	-	-	-	-	-	-	-	-	-	-
Burundi	-	-	-	-	-	-	-	-	-	-	-	-	-
Cameroon	-	-	-	-	-	-	-	-	-	-	2	1	1
Cape Verde	131	35	35	-	17	17	-	79	79	-	4	2	2
Central African Rep	-	-	-	-	-	-	-	-	-	-	-	-	-
Chad	-	-	-	-	-	-	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-	-	-	-	-	-
Congo	1	-	-	-	-	-	-	1	1	-	-	-	-
Djibouti	-	-	-	-	-	-	-	-	-	-	-	-	-
Egypt	544	221	214	7	140	137	3	183	178	5	81	36	32
Equatorial Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	11	5	4	1	2	2	-	4	4	-	21	11	11
Gabon	-	-	-	-	-	-	-	-	-	-	-	-	-
Gambia, The	-	-	-	-	-	-	-	-	-	-	2	1	1

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 5TH PREF.	TOTAL 51 & 56	P51	P56	TOTAL 52 & 57	P52	P57	TOTAL 53 & 58	P53	P58	TOTAL 6TH PREF.	TOTAL 61 & 66	P61
Ghana	30	25	24	1	1	1	-	4	4	-	53	22	21
Guinea	1	-	-	-	-	-	-	1	1	-	1	1	1
Guinea-Bissau	-	-	-	-	-	-	-	-	-	-	-	-	-
Ivory Coast	1	-	-	-	-	-	-	1	-	1	-	-	-
Kenya	251	89	89	-	79	79	-	83	83	-	45	22	14
Lesotho	-	-	-	-	-	-	-	-	-	-	1	1	1
Liberia	11	7	7	-	-	-	-	4	4	-	7	2	2
Libya	19	3	3	-	-	-	-	16	16	-	8	4	3
Madagascar	1	1	1	-	-	-	-	-	-	-	4	3	3
Malawi	21	10	10	-	8	8	-	3	3	-	4	1	1
Mali	3	1	1	-	-	-	-	2	2	-	-	-	-
Mauritania	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritius	4	1	1	-	1	1	-	2	2	-	2	1	1
Morocco	22	14	12	2	5	5	-	3	3	-	33	22	17
Mozambique	11	5	5	-	4	4	-	2	2	-	7	5	4
Namibia	-	-	-	-	-	-	-	-	-	-	1	-	-
Niger	-	-	-	-	-	-	-	-	-	-	-	-	-
Nigeria	15	6	5	1	2	2	-	7	7	-	20	9	8
Rwanda	-	-	-	-	-	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-	-	-	-	-	-
Senegal	5	2	2	-	1	1	-	2	2	-	3	-	-
Seychelles	14	3	3	-	3	3	-	8	8	-	2	1	1
Sierra Leone	6	4	4	-	1	1	-	1	1	-	18	11	10
Somalia	-	-	-	-	-	-	-	-	-	-	2	2	2
South Africa	27	8	7	1	5	5	-	14	14	-	187	61	48
Sudan	13	6	6	-	6	6	-	1	1	-	3	2	2
Swaziland	-	-	-	-	-	-	-	-	-	-	2	-	-
Tanzania	145	60	60	-	41	41	-	44	43	1	59	23	18
Togo	-	-	-	-	-	-	-	-	-	-	-	-	-
Tunisia	-	-	-	-	-	-	-	-	-	-	5	3	3
Uganda	98	41	41	-	32	32	-	25	25	-	9	6	5
Zaire	5	-	-	-	1	1	-	4	4	-	6	2	2
Zambia	20	7	7	-	2	2	-	11	11	-	13	-	-
Zimbabwe	11	4	4	-	1	1	-	6	6	-	11	6	6
Oceania	549	148	143	5	109	108	1	292	291	1	114	52	39
Australia	23	6	6	-	3	3	-	14	14	-	68	25	17
Australia	23	6	6	-	3	3	-	14	14	-	68	25	17
Christmas Island	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Fiji	390	102	101	1	85	85	-	203	203	-	6	3	3
Kiribati	-	-	-	-	-	-	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	14	2	2	-	1	1	-	11	11	-	23	17	12
New Zealand	14	2	2	-	1	1	-	11	11	-	23	17	12
Niue	-	-	-	-	-	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter.	-	-	-	-	-	-	-	-	-	-	-	-	-
Papua New Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Tonga	107	30	29	1	19	19	-	58	58	-	15	6	6
Tuvalu	-	-	-	-	-	-	-	-	-	-	-	-	-
Vanuatu	1	-	-	-	-	-	-	1	1	-	-	-	-
Western Samoa	14	8	5	3	1	-	1	5	4	1	2	1	1
North America	12,500	4,938	4,882	56	2,557	2,530	27	5,005	4,971	34	9,385	3,504	3,389
Canada	342	41	38	3	34	31	3	267	261	6	586	187	110
Mexico	3,741	1,504	1,489	15	966	963	3	1,271	1,264	7	1,688	629	623
Carribean	6,421	2,639	2,626	13	1,149	1,143	6	2,633	2,631	2	2,248	859	843
Antigua-Barbuda	82	33	33	-	12	12	-	37	37	-	49	21	21
Bahamas, The	16	4	4	-	-	-	-	12	12	-	22	7	7
Barbados	94	46	46	-	16	16	-	32	32	-	189	80	80
Cuba	1,491	684	681	3	387	386	1	420	420	-	5	1	-
Dominica	103	38	38	-	14	14	-	51	51	-	30	12	12
Dominican Republic	323	83	83	-	66	66	-	174	174	-	36	12	12

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	TOTAL 5TH PREF.	TOTAL 51 & 56	P51	P56	TOTAL 52 & 57	P52	P57	TOTAL 53 & 58	P53	P58	TOTAL 6TH PREF.	TOTAL 61 & 66	P61
Grenada	98	47	46	1	14	14	-	37	37	-	153	56	55
Haiti	1,038	343	339	4	164	162	2	531	531	-	268	105	103
Jamaica	2,514	1,081	1,078	3	372	369	3	1,061	1,059	2	1,007	358	349
St. Christopher-Nevis	60	24	24	-	7	7	-	29	29	-	24	12	12
St. Lucia	85	37	37	-	10	10	-	38	38	-	54	25	25
St. Vincent & Grenadines	46	20	19	1	10	10	-	16	16	-	112	39	39
Trinidad & Tobago	471	199	198	1	77	77	-	195	195	-	299	131	128
Central America	1,996	754	729	25	408	393	15	834	815	19	4,863	1,829	1,813
Belize	61	28	27	1	14	14	-	19	19	-	66	21	20
Costa Rica	103	37	36	1	20	20	-	46	46	-	67	26	24
El Salvador	580	222	219	3	119	118	1	239	239	-	3,662	1,383	1,377
Guatemala	479	162	161	1	103	102	1	214	211	3	809	307	306
Honduras	257	110	110	-	38	37	1	109	109	-	123	45	44
Nicaragua	329	123	104	19	82	70	12	124	109	15	99	34	29
Panama	187	72	72	-	32	32	-	83	82	1	37	13	13
South America	4,216	1,425	1,413	12	815	809	6	1,976	1,971	5	2,488	947	868
Argentina	150	53	52	1	37	35	2	60	57	3	269	109	88
Bolivia	78	28	28	-	20	20	-	30	30	-	186	78	78
Brazil	98	24	24	-	14	13	1	60	60	-	163	72	68
Chile	87	32	32	-	22	22	-	33	33	-	98	43	38
Colombia	1,037	402	399	3	195	195	-	440	438	2	346	147	125
Ecuador	403	152	152	-	69	69	-	182	182	-	242	81	80
Guyana	1,695	489	488	1	338	338	-	868	868	-	643	201	192
Paraguay	9	4	3	1	2	2	-	3	3	-	22	8	8
Peru	543	207	204	3	99	97	2	237	237	-	313	149	140
Suriname	24	10	9	1	5	5	-	9	9	-	18	4	2
Uruguay	35	14	14	-	9	9	-	12	12	-	82	32	32
Venezuela	57	10	8	2	5	4	1	42	42	-	106	23	17
Non-quota immigrant	-	-	-	-	-	-	-	-	-	-	-	-	-
Unknown or not reported	1	-	-	-	-	-	-	1	1	-	1	1	1

DETAIL RUN 402

IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY

FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P66	TOTAL 62 & 67	P62	P67	TOTAL 63 & 68	P63	P68	TOTAL NON-PREF.	TOTAL 1965 ACT	NP1	NP6	TOTAL 1986 ACT	NP5
All countries	1,314	6,390	5,617	773	9,841	8,663	1,178	6,029	-	-	-	6,029	5,725
Europe	347	925	734	191	1,270	1,006	264	4,298	-	-	-	4,298	4,131
Albania	-	-	-	-	-	-	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	2	5	3	2	4	3	1	35	-	-	-	35	31
Belgium	4	4	3	1	7	5	2	18	-	-	-	18	17
Bulgaria	-	3	3	-	-	-	-	-	-	-	-	-	-
Czechoslovakia	3	5	3	2	1	1	-	21	-	-	-	21	19
Denmark	2	6	4	2	7	3	4	20	-	-	-	20	20
Denmark	2	6	4	2	7	3	4	20	-	-	-	20	20
Greenland	-	-	-	-	-	-	-	-	-	-	-	-	-
Estonia	-	-	-	-	-	-	-	1	-	-	-	1	1
Finland	1	4	3	1	2	1	1	17	-	-	-	17	9
France	24	53	42	11	62	52	10	81	-	-	-	81	70
France	24	53	42	11	61	51	10	81	-	-	-	81	70
French Guiana	-	-	-	-	-	-	-	-	-	-	-	-	-
French Polynesia	-	-	-	-	-	-	-	-	-	-	-	-	-
French S. & Antarctic	-	-	-	-	-	-	-	-	-	-	-	-	-
Guadeloupe	-	-	-	-	1	1	-	-	-	-	-	-	-
Martinique	-	-	-	-	-	-	-	-	-	-	-	-	-
New Caledonia	-	-	-	-	-	-	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, East	-	2	2	-	-	-	-	3	-	-	-	3	3
Germany, West	43	54	32	22	57	30	27	152	-	-	-	152	140
Greece	4	14	12	2	14	13	1	-	-	-	-	-	-
Hungary	4	6	4	2	4	4	-	21	-	-	-	21	15
Iceland	-	2	2	-	3	3	-	3	-	-	-	3	3
Ireland	2	22	19	3	22	14	8	2,595	-	-	-	2,595	2,589
Italy	19	36	29	7	38	29	9	188	-	-	-	188	168
Latvia	-	-	-	-	-	-	-	1	-	-	-	1	1
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	-	-	-	-	-	-	-	6	-	-	-	6	5
Luxembourg	-	-	-	-	-	-	-	-	-	-	-	-	-
Malta	-	1	1	-	2	-	2	-	-	-	-	-	-
Monaco	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	12	21	16	5	14	10	4	67	-	-	-	67	63
Netherlands	12	20	15	5	12	8	4	67	-	-	-	67	63
Aruba	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherland Antilles	-	1	1	-	2	2	-	-	-	-	-	-	-
Norway	3	3	2	1	4	-	4	20	-	-	-	20	19
Poland	8	42	42	-	30	29	1	324	-	-	-	324	294
Portugal	5	155	152	3	205	204	1	-	-	-	-	-	-
Portugal	3	146	144	2	201	201	-	-	-	-	-	-	-
Macau	2	9	8	1	4	3	1	-	-	-	-	-	-
Romania	4	11	10	1	4	4	-	-	-	-	-	-	-
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Soviet Union	7	37	28	9	19	14	5	-	-	-	-	-	-
Spain	9	51	41	10	61	53	8	-	-	-	-	-	-
Spain	9	51	41	10	61	53	8	-	-	-	-	-	-
Western Sahara	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	7	15	11	4	21	19	2	58	-	-	-	58	48
Switzerland	11	11	8	3	5	2	3	44	-	-	-	44	42
United Kingdom	170	352	252	100	677	506	171	623	-	-	-	623	574
United Kingdom	109	230	157	73	393	259	134	623	-	-	-	623	574
Anguilla	-	-	-	-	-	-	-	-	-	-	-	-	-
Bermuda	-	1	1	-	5	5	-	-	-	-	-	-	-
British Virgin Is	-	1	1	-	5	5	-	-	-	-	-	-	-
Cayman Islands	-	-	-	-	1	1	-	-	-	-	-	-	-
Falkland Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-	-	-	-	-	-	-
Hong Kong	61	116	89	27	261	224	37	-	-	-	-	-	-
Montserrat	-	1	1	-	9	9	-	-	-	-	-	-	-

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P66	TOTAL 62 & 67	P62	P67	TOTAL 63 & 68	P63	P68	TOTAL NON-PREF.	TOTAL 1965 ACT	NP1	NP6	TOTAL 1986 ACT	NP5
Pitcairn Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Helena	-	-	-	-	-	-	-	-	-	-	-	-	-
Turks & Caicos Is	-	3	3	-	3	3	-	-	-	-	-	-	-
Yugoslavia	3	10	10	-	7	7	-	-	-	-	-	-	-
Asia	718	2,646	2,245	401	3,540	2,910	630	710	-	-	-	710	633
Afghanistan	-	3	3	-	-	-	-	-	-	-	-	-	-
Bahrain	-	-	-	-	-	-	-	-	-	-	-	-	-
Bangladesh	-	6	4	2	8	8	-	-	-	-	-	-	-
Bhutan	-	-	-	-	-	-	-	-	-	-	-	-	-
Brunei	-	-	-	-	-	-	-	-	-	-	-	-	-
Burma	3	2	2	-	1	1	-	-	-	-	-	-	-
Cambodia	-	1	1	-	-	-	-	-	-	-	-	-	-
China, Mainland	72	442	409	33	506	474	32	-	-	-	-	-	-
Cyprus	-	2	2	-	4	3	1	-	-	-	-	-	-
India	56	156	127	29	154	141	13	-	-	-	-	-	-
Indonesia	4	22	20	2	25	18	7	383	-	-	-	383	365
Iran	29	150	121	29	132	94	38	-	-	-	-	-	-
Iraq	4	19	15	4	20	16	4	-	-	-	-	-	-
Israel	16	74	62	12	164	136	28	-	-	-	-	-	-
Japan	38	165	143	22	84	56	28	327	-	-	-	327	268
Jordan	2	8	6	2	13	13	-	-	-	-	-	-	-
Korea	69	481	437	44	882	824	58	-	-	-	-	-	-
Kuwait	-	1	1	-	21	18	3	-	-	-	-	-	-
Laos	1	-	-	-	1	1	-	-	-	-	-	-	-
Lebanon	10	62	56	6	120	112	8	-	-	-	-	-	-
Malaysia	6	23	21	2	21	17	4	-	-	-	-	-	-
Maldives	-	-	-	-	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-	-	-	-	-
Nepal	-	1	1	-	1	1	-	-	-	-	-	-	-
Oman	-	-	-	-	-	-	-	[illegible]	-	-	-	-	-
Pakistan	16	39	27	12	57	39	18	[illegible]	-	-	-	-	-
Philippines	156	473	432	41	505	456	49	[illegible]	-	-	-	-	-
Qatar	-	-	-	-	1	1	-	[illegible]	-	-	-	-	-
Saudi Arabia	-	2	2	-	6	5	1	[illegible]	-	-	-	-	-
Singapore	4	4	2	2	10	10	-	[illegible]	-	-	-	-	-
Sri Lanka	4	30	27	3	30	26	4	[illegible]	-	-	-	-	-
Syria	4	48	47	1	46	43	3	-	-	-	-	-	-
Taiwan	215	351	209	142	647	327	320	-	-	-	-	-	-
Thailand	1	42	35	7	35	30	5	-	-	-	-	-	-
Turkey	8	30	24	6	33	28	5	-	-	-	-	-	-
United Arab Emirates	-	-	-	-	5	4	1	-	-	-	-	-	-
Vietnam	-	9	9	-	8	8	-	-	-	-	-	-	-
Yemen (Aden)	-	-	-	-	-	-	-	-	-	-	-	-	-
Yemen (Sanaa)	-	-	-	-	-	-	-	-	-	-	-	-	-
Africa	42	173	137	36	193	156	37	13	-	-	-	13	11
Algeria	1	6	5	1	-	-	-	5	-	-	-	5	3
Angola	-	2	2	-	2	2	-	-	-	-	-	-	-
Benin	-	1	1	-	-	-	-	-	-	-	-	-	-
Botswana	-	-	-	-	-	-	-	-	-	-	-	-	-
Burkina	-	-	-	-	-	-	-	-	-	-	-	-	-
Burundi	-	-	-	-	-	-	-	-	-	-	-	-	-
Cameroon	-	1	1	-	-	-	-	-	-	-	-	-	-
Cape Verde	-	1	1	-	1	1	-	-	-	-	-	-	-
Central African Rep	-	-	-	-	-	-	-	-	-	-	-	-	-
Chad	-	-	-	-	-	-	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-	-	-	-	-	-	-
Congo	-	-	-	-	-	-	-	-	-	-	-	-	-
Djibouti	-	-	-	-	-	-	-	-	-	-	-	-	-
Egypt	4	22	19	3	23	19	4	-	-	-	-	-	-
Equatorial Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	-	7	6	1	3	3	-	-	-	-	-	-	-
Gabon	-	-	-	-	-	-	-	-	-	-	-	-	-
Gambia, The	-	1	1	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P66	TOTAL 62 & 67	P62	P67	TOTAL 63 & 68	P63	P68	TOTAL NON-PREF.	TOTAL 1965 ACT	NP1	NP6	TOTAL 1986 ACT	NP5
Ghana	1	8	7	1	23	18	5	-	-	-	-	-	-
Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Guinea-Bissau	-	-	-	-	-	-	-	-	-	-	-	-	-
Ivory Coast	-	-	-	-	-	-	-	-	-	-	-	-	-
Kenya	8	10	7	3	13	12	1	-	-	-	-	-	-
Lesotho	-	-	-	-	-	-	-	-	-	-	-	-	-
Liberia	-	2	2	-	3	3	-	-	-	-	-	-	-
Libya	1	2	1	1	2	1	1	-	-	-	-	-	-
Madagascar	-	1	1	-	-	-	-	-	-	-	-	-	-
Malawi	-	1	1	-	2	2	-	-	-	-	-	-	-
Mali	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritania	-	-	-	-	-	-	-	-	-	-	-	-	-
Mauritius	-	1	1	-	-	-	-	-	-	-	-	-	-
Morocco	5	10	8	2	1	1	-	-	-	-	-	-	-
Mozambique	1	1	1	-	1	1	-	-	-	-	-	-	-
Namibia	-	-	-	-	1	1	-	-	-	-	-	-	-
Niger	-	-	-	-	-	-	-	-	-	-	-	-	-
Nigeria	1	8	7	1	3	3	-	-	-	-	-	-	-
Rwanda	-	-	-	-	-	-	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-	-	-	-	-	-	-
Senegal	-	1	-	1	2	-	2	-	-	-	-	-	-
Seychelles	-	1	-	1	-	-	-	-	-	-	-	-	-
Sierra Leone	1	6	5	1	1	1	-	-	-	-	-	-	-
Somalia	-	-	-	-	-	-	-	-	-	-	-	-	-
South Africa	13	53	40	13	73	55	18	-	-	-	-	-	-
Sudan	-	1	1	-	-	-	-	-	-	-	-	-	-
Swaziland	-	1	1	-	1	1	-	-	-	-	-	-	-
Tanzania	5	13	9	4	23	17	6	-	-	-	-	-	-
Togo	-	-	-	-	-	-	-	-	-	-	-	-	-
Tunisia	-	2	2	-	-	-	-	8	-	-	-	8	8
Uganda	1	2	1	1	1	1	-	-	-	-	-	-	-
Zaire	-	4	3	1	-	-	-	-	-	-	-	-	-
Zambia	-	3	3	-	10	10	-	-	-	-	-	-	-
Zimbabwe	-	1	-	1	4	4	-	-	-	-	-	-	-
Oceania	13	30	23	7	32	21	11	-	-	-	-	-	-
Australia	8	20	14	6	23	16	7	-	-	-	-	-	-
Australia	8	20	14	6	23	16	7	-	-	-	-	-	-
Christmas Island	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Fiji	-	1	-	1	2	-	2	-	-	-	-	-	-
Kiribati	-	-	-	-	-	-	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	5	2	2	-	4	2	2	-	-	-	-	-	-
New Zealand	5	2	2	-	4	2	2	-	-	-	-	-	-
Niue	-	-	-	-	-	-	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Pacific Is. Trust Ter	-	-	-	-	-	-	-	-	-	-	-	-	-
Papua New Guinea	-	-	-	-	-	-	-	-	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-	-	-	-	-	-	-
Tonga	-	6	6	-	3	3	-	-	-	-	-	-	-
Tuvalu	-	-	-	-	-	-	-	-	-	-	-	-	-
Vanuatu	-	-	-	-	-	-	-	-	-	-	-	-	-
Western Samoa	-	1	1	-	-	-	-	-	-	-	-	-	-
North America	115	2,060	1,972	88	3,821	3,690	131	901	-	-	-	901	853
Canada	77	136	77	59	263	181	82	901	-	-	-	901	853
Mexico	6	515	512	3	544	540	4	-	-	-	-	-	-
Carribean	16	353	341	12	1,036	1,015	21	-	-	-	-	-	-
Antigua-Barbuda	-	3	3	-	25	25	-	-	-	-	-	-	-
Bahamas, The	-	3	2	1	12	10	2	-	-	-	-	-	-
Barbados	-	30	29	1	79	78	1	-	-	-	-	-	-
Cuba	1	4	4	-	-	-	-	-	-	-	-	-	-
Dominica	-	5	5	-	13	13	-	-	-	-	-	-	-
Dominican Republic	-	5	5	-	19	17	2	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	P66	TOTAL 62 & 67	P62	P67	TOTAL 63 & 68	P63	P68	TOTAL NON-PREF.	TOTAL 1965 ACT	NP1	NP6	TOTAL 1986 ACT	NP5
Grenada	1	22	22	-	75	75	-	-	-	-	-	-	-
Haiti	2	43	42	1	120	119	1	-	-	-	-	-	-
Jamaica	9	177	173	4	472	465	7	-	-	-	-	-	-
St. Christopher-Nevis	-	2	2	-	10	10	-	-	-	-	-	-	-
St. Lucia	-	6	6	-	23	23	-	-	-	-	-	-	-
St. Vincent & Grenadines	-	16	16	-	57	57	-	-	-	-	-	-	-
Trinidad & Tobago	3	37	32	5	131	123	8	-	-	-	-	-	-
Central America	16	1,056	1,042	14	1,978	1,954	24	-	-	-	-	-	-
Belize	1	12	12	-	33	32	1	-	-	-	-	-	-
Costa Rica	2	15	12	3	26	23	3	-	-	-	-	-	-
El Salvador	6	789	786	3	1,490	1,486	4	-	-	-	-	-	-
Guatemala	1	188	187	1	314	311	3	-	-	-	-	-	-
Honduras	1	23	22	1	55	55	-	-	-	-	-	-	-
Nicaragua	5	22	17	5	43	32	11	-	-	-	-	-	-
Panama	-	7	6	1	17	15	2	-	-	-	-	-	-
South America	79	556	506	50	985	880	105	107	-	-	-	107	97
Argentina	21	66	55	11	94	71	23	107	-	-	-	107	97
Bolivia	-	36	36	-	72	72	-	-	-	-	-	-	-
Brazil	4	36	35	1	55	50	5	-	-	-	-	-	-
Chile	5	25	22	3	30	23	7	-	-	-	-	-	-
Colombia	22	86	68	18	113	83	30	-	-	-	-	-	-
Ecuador	1	53	53	-	108	106	2	-	-	-	-	-	-
Guyana	9	143	141	2	299	298	1	-	-	-	-	-	-
Paraguay	-	3	3	-	11	11	-	-	-	-	-	-	-
Peru	9	66	60	6	98	88	10	-	-	-	-	-	-
Suriname	2	5	4	1	9	6	3	-	-	-	-	-	-
Uruguay	-	20	18	2	30	29	1	-	-	-	-	-	-
Venezuela	6	17	11	6	66	43	23	-	-	-	-	-	-
Non-quota immigrant	-	-	-	-	-	-	-	-	-	-	-	-	-
Unknown or not reported	-	-	-	-	-	-	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	NPO	TOTAL Z11 & Z57	Z11	Z57	TOTAL Z41 & Z91	Z41	Z91
All countries	304	3,734	3,731	3	6	1	5
Europe	167	71	71	-	-	-	-
Albania	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-
Austria	4	-	-	-	-	-	-
Belgium	1	1	1	-	-	-	-
Bulgaria	-	-	-	-	-	-	-
Czechoslovakia	2	3	3	-	-	-	-
Denmark	-	-	-	-	-	-	-
Denmark	-	-	-	-	-	-	-
Greenland	-	-	-	-	-	-	-
Estonia	-	-	-	-	-	-	-
Finland	8	-	-	-	-	-	-
France	11	-	-	-	-	-	-
France	11	-	-	-	-	-	-
French Guiana	-	-	-	-	-	-	-
French Polynesia	-	-	-	-	-	-	-
French S. & Antarctic	-	-	-	-	-	-	-
Guadeloupe	-	-	-	-	-	-	-
Martinique	-	-	-	-	-	-	-
New Caledonia	-	-	-	-	-	-	-
Reunion	-	-	-	-	-	-	-
St. Pierre & Miquelon	-	-	-	-	-	-	-
Wallis & Futuna	-	-	-	-	-	-	-
Germany, East	-	-	-	-	-	-	-
Germany, West	12	2	2	-	-	-	-
Greece	-	9	9	-	-	-	-
Hungary	6	-	-	-	-	-	-
Iceland	-	-	-	-	-	-	-
Ireland	6	6	6	-	-	-	-
Italy	20	13	13	-	-	-	-
Latvia	-	-	-	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-
Lithuania	1	-	-	-	-	-	-
Luxembourg	-	-	-	-	-	-	-
Malta	-	-	-	-	-	-	-
Monaco	-	-	-	-	-	-	-
Netherlands	4	2	2	-	-	-	-
Netherlands	4	2	2	-	-	-	-
Aruba	-	-	-	-	-	-	-
Netherland Antilles	-	-	-	-	-	-	-
Norway	1	-	-	-	-	-	-
Poland	30	5	5	-	-	-	-
Portugal	-	2	2	-	-	-	-
Portugal	-	2	2	-	-	-	-
Macau	-	-	-	-	-	-	-
Romania	-	-	-	-	-	-	-
San Marino	-	-	-	-	-	-	-
Soviet Union	-	1	1	-	-	-	-
Spain	-	3	3	-	-	-	-
Spain	-	3	3	-	-	-	-
Western Sahara	-	-	-	-	-	-	-
Sweden	10	-	-	-	-	-	-
Switzerland	2	-	-	-	-	-	-
United Kingdom	49	17	17	-	-	-	-
United Kingdom	49	5	5	-	-	-	-
Anguilla	-	-	-	-	-	-	-
Bermuda	-	-	-	-	-	-	-
British Virgin Is.	-	1	1	-	-	-	-
Cayman Islands	-	-	-	-	-	-	-
Falkland Islands	-	-	-	-	-	-	-
Gibralter	-	-	-	-	-	-	-
Hong Kong	-	11	11	-	-	-	-
Montserrat	-	-	-	-	-	-	-

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	NPO	TOTAL Z11 & Z57	Z11	Z57	TOTAL Z41 & Z91	Z41	Z91
Pitcairn Islands	-	-	-	-	-	-	-
St. Helena	-	-	-	-	-	-	-
Turks & Caicos Is.	-	-	-	-	-	-	-
Yugoslavia	-	7	7	-	-	-	-
Asia	77	201	199	2	6	1	5
Afghanistan	-	3	3	-	-	-	-
Bahrain	-	-	-	-	-	-	-
Bangladesh	-	2	2	-	-	-	-
Bhutan	-	-	-	-	-	-	-
Brunei	-	-	-	-	-	-	-
Burma	-	-	-	-	-	-	-
Cambodia	-	-	-	-	-	-	-
China, Mainland	-	26	24	2	-	-	-
Cyprus	-	-	-	-	-	-	-
India	-	12	12	-	-	-	-
Indonesia	18	-	-	-	-	-	-
Iran	-	62	62	-	-	-	-
Iraq	-	3	3	-	-	-	-
Israel	-	3	3	-	-	-	-
Japan	59	2	2	-	-	-	-
Jordan	-	-	-	-	-	-	-
Korea	-	12	12	-	5	-	5
Kuwait	-	-	-	-	-	-	-
Laos	-	3	3	-	-	-	-
Lebanon	-	4	4	-	1	1	-
Malaysia	-	3	3	-	-	-	-
Maldives	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	-
Nepal	-	-	-	-	-	-	-
Oman	-	-	-	-	-	-	-
Pakistan	-	1	1	-	-	-	-
Philippines	-	42	42	-	-	-	-
Qatar	-	-	-	-	-	-	-
Saudi Arabia	-	-	-	-	-	-	-
Singapore	-	-	-	-	-	-	-
Sri Lanka	-	-	-	-	-	-	-
Syria	-	2	2	-	-	-	-
Taiwan	-	3	3	-	-	-	-
Thailand	-	14	14	-	-	-	-
Turkey	-	3	3	-	-	-	-
United Arab Emirates	-	-	-	-	-	-	-
Vietnam	-	1	1	-	-	-	-
Yemen (Aden)	-	-	-	-	-	-	-
Yemen (Sanaa)	-	-	-	-	-	-	-
Africa	2	54	54	-	-	-	-
Algeria	2	-	-	-	-	-	-
Angola	-	-	-	-	-	-	-
Benin	-	-	-	-	-	-	-
Botswana	-	-	-	-	-	-	-
Burkina	-	-	-	-	-	-	-
Burundi	-	-	-	-	-	-	-
Cameroon	-	-	-	-	-	-	-
Cape Verde	-	1	1	-	-	-	-
Central African Rep	-	-	-	-	-	-	-
Chad	-	-	-	-	-	-	-
Comoros	-	-	-	-	-	-	-
Congo	-	-	-	-	-	-	-
Djibouti	-	-	-	-	-	-	-
Egypt	-	1	1	-	-	-	-
Equatorial Guinea	-	-	-	-	-	-	-
Ethiopia	-	4	4	-	-	-	-
Gabon	-	-	-	-	-	-	-
Gambia, The	-	-	-	-	-	-	-

DETAIL RUN 402
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	NPO	TOTAL Z11 & Z57	Z11	Z57	TOTAL Z41 & Z91	Z41	Z91
Ghana	-	10	10	-	-	-	-
Guinea	-	-	-	-	-	-	-
Guinea-Bissau	-	-	-	-	-	-	-
Ivory Coast	-	-	-	-	-	-	-
Kenya	-	-	-	-	-	-	-
Lesotho	-	-	-	-	-	-	-
Liberia	-	4	4	-	-	-	-
Libya	-	-	-	-	-	-	-
Madagascar	-	-	-	-	-	-	-
Malawi	-	-	-	-	-	-	-
Mali	-	-	-	-	-	-	-
Mauritania	-	-	-	-	-	-	-
Mauritius	-	-	-	-	-	-	-
Morocco	-	-	-	-	-	-	-
Mozambique	-	-	-	-	-	-	-
Namibia	-	2	2	-	-	-	-
Niger	-	-	-	-	-	-	-
Nigeria	-	17	17	-	-	-	-
Rwanda	-	-	-	-	-	-	-
Sao Tome & Principe	-	-	-	-	-	-	-
Senegal	-	-	-	-	-	-	-
Seychelles	-	-	-	-	-	-	-
Sierra Leone	-	11	11	-	-	-	-
Somalia	-	-	-	-	-	-	-
South Africa	-	1	1	-	-	-	-
Sudan	-	-	-	-	-	-	-
Swaziland	-	-	-	-	-	-	-
Tanzania	-	-	-	-	-	-	-
Togo	-	-	-	-	-	-	-
Tunisia	-	-	-	-	-	-	-
Uganda	-	1	1	-	-	-	-
Zaire	-	2	2	-	-	-	-
Zambia	-	-	-	-	-	-	-
Zimbabwe	-	-	-	-	-	-	-
Oceania	-	2	2	-	-	-	-
Australia	-	-	-	-	-	-	-
Australia	-	-	-	-	-	-	-
Christmas Island	-	-	-	-	-	-	-
Cocos Islands	-	-	-	-	-	-	-
Fiji	-	-	-	-	-	-	-
Kiribati	-	-	-	-	-	-	-
Nauru	-	-	-	-	-	-	-
New Zealand	-	-	-	-	-	-	-
New Zealand	-	-	-	-	-	-	-
Niue	-	-	-	-	-	-	-
Cook Islands	-	-	-	-	-	-	-
Pacific Is. Trust Ter	-	-	-	-	-	-	-
Papua New Guinea	-	-	-	-	-	-	-
Solomon Islands	-	-	-	-	-	-	-
Tonga	-	1	1	-	-	-	-
Tuvalu	-	-	-	-	-	-	-
Vanuatu	-	-	-	-	-	-	-
Western Samoa	-	1	1	-	-	-	-
North America	48	3,320	3,320	-	-	-	-
Canada	48	4	4	-	-	-	-
Mexico	-	3,186	3,186	-	-	-	-
Carribean	-	52	52	-	-	-	-
Antigua-Barbuda	-	3	3	-	-	-	-
Bahamas, The	-	2	2	-	-	-	-
Barbados	-	1	1	-	-	-	-
Cuba	-	-	-	-	-	-	-
Dominica	-	-	-	-	-	-	-
Dominican Republic	-	10	10	-	-	-	-

DETAIL RUN 402.
IMMIGRANTS ADMITTED BY CLASS OF ADMISSION AND FOREIGN STATE OF CHARGEABILITY
FISCAL YEAR 1988-Continued

FOREIGN STATE OF CHARGEABILITY	NPO	TOTAL Z11 & Z57	Z11	Z57	TOTAL Z41 & Z91	Z41	Z91
Grenada	-	2	2	-	-	-	-
Haiti	-	15	15	-	-	-	-
Jamaica	-	12	12	-	-	-	-
St. Christopher-Nevis	-	1	1	-	-	-	-
St. Lucia	-	1	1	-	-	-	-
St. Vincent & Grenadines	-	-	-	-	-	-	-
Trinidad & Tobago	-	5	5	-	-	-	-
Central America	-	78	78	-	-	-	-
Belize	-	11	11	-	-	-	-
Costa Rica	-	3	3	-	-	-	-
El Salvador	-	24	24	-	-	-	-
Guatemala	-	26	26	-	-	-	-
Honduras	-	6	6	-	-	-	-
Nicaragua	-	6	6	-	-	-	-
Panama	-	2	2	-	-	-	-
South America	10	86	85	1	-	-	-
Argentina	10	7	7	-	-	-	-
Bolivia	-	8	8	-	-	-	-
Brazil	-	3	3	-	-	-	-
Chile	-	12	11	1	-	-	-
Colombia	-	19	19	-	-	-	-
Ecuador	-	7	7	-	-	-	-
Guyana	-	2	2	-	-	-	-
Paraguay	-	-	-	-	-	-	-
Peru	-	25	25	-	-	-	-
Suriname	-	-	-	-	-	-	-
Uruguay	-	1	1	-	-	-	-
Venezuela	-	2	2	-	-	-	-
Non-quota immigrant	-	-	-	-	-	-	-
Unknown or not reported	-	-	-	-	-	-	-

SOURCE: STATISTICAL ANALYSIS BRANCH, U.S. IMMIGRATION AND NATURALIZATION SERVICE

ACTIVE IMMIGRANT VISA APPLICANTS REGISTERED AT CONSULAR OFFICES

AS OF JANUARY 1988

FOREIGN STATE	PREFERENCE						NONPREF.	TOTAL
	1ST	2ND	3RD	4TH	5TH	6TH		
AFGHANISTAN	1	369	4	13	799	37	4	1,227
ALBANIA	-	4	-	-	16	-	6	26
ALGERIA	2	32	13	1	53	28	9	138
ANGOLA	-	33	-	8	178	19	-	238
ANTIGUA AND BARBUDA	19	533	7	37	1,413	375	420	2,804
ARGENTINA	25	441	102	151	2,684	623	2,039	6,065
AUSTRALIA	50	91	139	46	161	217	193	897
AUSTRIA	2	53	31	11	175	87	125	484
BAHAMAS	8	256	7	21	286	18	9	605
BAHRAIN	-	14	3	1	124	5	-	147
BANGLADESH	6	493	44	25	6,300	39	16	6,923
BARBADOS	46	772	20	79	2,365	228	93	3,603
BELGIUM	4	52	85	10	111	98	120	480
BELIZE	69	1,339	3	126	2,025	150	33	3,745
BENIN	-	1	-	-	5	2	-	8
BHUTAN	-	-	-	-	2	-	-	2
BOLIVIA	10	587	34	74	1,862	603	29	3,199
BOTSWANA	-	-	1	-	5	-	1	7
BRAZIL	8	419	68	39	1,444	342	34	2,354
BRUNEI	-	2	2	-	58	6	1	69
BULGARIA	5	37	3	17	103	16	18	199
BURKINA FASO	-	2	-	-	-	5	-	7
BURMA	3	661	9	114	5,847	45	38	6,717
BURUNDI	1	-	-	-	13	-	1	15
CAMBODIA	24	565	-	75	2,506	15	11	3,196
CAMEROON	-	32	4	1	11	1	13	62
CANADA	365	1,357	1,493	1,264	8,405	2,353	7,005	22,242
CAPE VERDE	3	1,177	-	19	995	6	1	2,201
CENTRAL AFRICAN REPUBLIC	-	1	-	-	2	-	-	3
CHAD	-	1	-	-	1	-	-	2
CHILE	24	895	73	128	3,899	366	80	5,465
CHINA - mainland born	66	10,411	470	1,575	104,483	3,555	1,521	122,081
- Taiwan born	57	7,699	1,349	494	73,172	4,564	140	87,475
COLOMBIA	99	5,452	45	283	14,696	510	232	21,317
CONGO	-	1	-	-	1	-	1	3
COSTA RICA	83	984	10	174	2,423	204	39	3,917

ACTIVE IMMIGRANT VISA APPLICANTS REGISTERED AT CONSULAR OFFICES

AS OF JANUARY 1988

FOREIGN STATE	PREFERENCE 1ST	2ND	3RD	4TH	5TH	6TH	NONPREF.	TOTAL
CUBA	745	3,691	2	2,449	16,542	21	392	23,84
CYPRUS	1	60	14	14	607	27	19	74
CZECHOSLOVAKIA	11	69	29	37	275	60	169	65
DENMARK	1	45	45	12	106	106	61	37
DJIBOUTI	1	1	-	-	2	-	-	
DOMINICA	16	475	10	7	1,519	29	36	2,09
DOMINICAN REPUBLIC	277	37,053	5	400	13,764	78	2,548	54,12
ECUADOR	33	1,566	17	34	7,595	158	75	9,47
EGYPT	17	1,627	186	109	12,156	349	101	14,54
EL SALVADOR	70	5,830	26	172	12,086	6,956	136	25,27
EQUATORIAL GUINEA	-	-	-	-	1	1	-	
ESTONIA	-	-	-	-	5	1	14	2
ETHIOPIA	6	943	39	3	383	57	5	1,43
FIJI	-	349	-	51	6,699	10	39	7,14
FINLAND	-	31	39	3	106	62	30	27
FRANCE	19	305	263	57	1,387	475	225	2,73
FRENCH GUIANA	-	2	-	-	6	-	-	
FRENCH POLYNESIA	-	5	-	-	36	1	5	4
GUADELOUPE	-	24	-	-	82	1	3	11
MARTINIQUE	-	16	-	-	42	8	-	6
NEW CALEDONIA	-	1	-	-	7	1	1	1
GABON	-	1	-	-	-	-	-	
GAMBIA	-	-	-	-	6	-	-	
GERMAN DEMOCRATIC REPUBLIC	1	26	20	14	156	46	153	41
GERMANY, FEDERAL REPUBLIC OF	57	474	301	150	1,972	688	878	4,52
GHANA	25	599	53	2	483	57	11	1,23
GREAT BRITAIN AND NORTHERN IRELAND	159	2,125	1,229	602	13,859	2,387	3,282	23,64
ANGUILLA	-	38	-	9	179	-	19	24
BERMUDA	-	33	4	8	161	5	39	25
BRITISH VIRGIN ISLANDS	-	52	-	10	200	4	4	27
CAYMAN ISLANDS	-	6	-	4	43	2	2	5
GIBRALTAR	-	-	-	-	2	1	-	
HONG KONG	130	6,475	387	2,054	32,332	763	154	42,29
MONTSERRAT	9	64	-	5	302	26	3	40
TURKS AND CAICOS ISLANDS	-	10	-	-	32	5	-	4
GREECE	48	522	54	190	6,766	166	269	8,01

ACTIVE IMMIGRANT VISA APPLICANTS REGISTERED AT CONSULAR OFFICES

AS OF JANUARY 1988

FOREIGN STATE	PREFERENCE							
	1ST	2ND	3RD	4TH	5TH	6TH	NONPREF.	TOTAL
GRENADA	22	450	2	24	1,455	191	33	2,177
GUATEMALA	74	4,081	10	268	10,593	2,474	113	17,613
GUINEA	-	3	-	-	13	-	-	16
GUINEA BISSAU	-	3	-	-	4	2	-	9
GUYANA	75	5,169	58	206	26,872	781	126	33,287
HAITI	133	9,346	16	99	11,249	420	82	21,345
HONDURAS	149	3,610	5	207	5,321	378	36	9,706
HUNGARY	7	78	41	27	350	69	225	797
ICELAND	-	11	2	3	58	10	5	89
INDIA	32	10,206	1,870	311	174,670	1,131	1,213	189,433
INDONESIA	8	402	98	40	3,361	352	149	4,410
IRAN	25	4,917	698	196	15,301	1,398	172	22,707
IRAQ	4	810	48	103	5,994	187	45	7,191
IRELAND	173	117	118	220	1,862	178	186	2,854
ISRAEL	32	642	250	257	3,485	1,054	111	5,831
ITALY	22	474	96	225	6,424	402	1,541	9,184
IVORY COAST/COTE D'IVOIRE	-	16	1	-	27	2	-	46
JAMAICA	489	15,971	200	971	29,082	1,754	442	48,909
JAPAN	8	501	409	82	1,264	1,839	123	4,226
JORDAN	23	1,263	29	181	7,265	73	12	8,846
KENYA	3	295	43	35	3,941	97	47	4,461
KIRIBATI	-	2	-	-	2	-	-	4
KOREA	65	13,211	854	730	115,842	5,933	761	137,396
KUWAIT	-	325	31	61	1,366	60	2	1,845
LAOS	8	308	-	32	1,111	6	22	1,487
LATVIA	-	5	2	6	12	10	25	60
LEBANON	26	2,072	82	376	11,542	984	55	15,137
LESOTHO	-	-	2	-	3	2	-	7
LIBERIA	20	437	14	4	220	36	2	733
LIBYA	-	26	9	4	173	15	3	230
LITHUANIA	1	3	-	1	26	4	33	68
LUXEMBOURG	-	-	1	-	8	-	4	13
MADAGASCAR	-	3	4	-	36	9	3	55
MALAWI	-	11	1	1	198	3	3	217
MALAYSIA	2	318	93	41	2,986	176	29	3,645
MALI	-	3	1	-	1	-	-	5

ACTIVE IMMIGRANT VISA APPLICANTS REGISTERED AT CONSULAR OFFICES

AS OF JANUARY 1988

FOREIGN STATE	PREFERENCE 1ST	2ND	3RD	4TH	5TH	6TH	NONPREF.	TOTAL
MALTA	-	34	5	5	363	9	9	425
MAURITANIA.	-	1	-	-	6	1	-	8
MAURITIUS	-	17	1	6	201	9	5	239
MEXICO.	3,369	75,653	162	37,957	143,988	9,503	126,747	397,379
MICRONESIA, FEDERATED STATES OF . .	-	-	-	-	1	-	-	1
MONACO.	-	-	2	-	3	-	1	6
MOROCCO	1	152	22	21	512	115	23	846
MOZAMBIQUE.	-	13	3	12	184	14	1	227
NAMIBIA	-	2	3	2	5	-	2	14
NAURU	-	-	-	-	4	-	-	4
NEPAL	-	29	6	5	282	11	4	337
NETHERLANDS	2	107	108	17	485	171	234	1,124
ARUBA	-	25	-	3	116	4	15	163
NETHERLANDS ANTILLES.	3	34	2	7	155	15	46	262
NEW ZEALAND	7	69	73	26	383	133	42	733
NICARAGUA	86	2,804	45	351	6,529	476	28	10,319
NIGER	-	-	-	1	3	1	-	5
NIGERIA	2	1,225	341	9	475	116	20	2,188
NORWAY.	2	33	36	15	137	53	18	294
OMAN.	-	1	-	-	24	5	2	32
PACIFIC ISLANDS, TRUST TERR OF THE.	1	45	-	1	40	-	3	90
PAKISTAN.	25	5,803	273	122	30,198	369	158	36,948
PANAMA.	85	776	40	99	2,376	54	23	3,453
PAPUA NEW GUINEA.	-	-	3	8	5	-	-	16
PARAGUAY.	2	71	-	17	335	66	28	519
PERU.	41	2,702	87	160	12,439	903	108	16,440
PHILIPPINES	12,587	77,661	15,773	59,855	224,102	9,811	577	400,366
POLAND.	118	1,517	98	2,067	6,498	323	739	11,360
PORTUGAL.	15	1,154	12	182	16,791	889	134	19,177
MACAU	-	116	16	27	3,063	68	24	3,314
QATAR	-	16	1	3	114	2	-	136
ROMANIA	40	356	34	272	2,023	116	151	2,992
RWANDA.	-	1	-	-	3	-	2	6
SAN MARINO.	-	-	-	-	1	-	-	1
SAO TOME AND PRINCIPE	-	4	-	-	2	-	-	6
SAUDI ARABIA.	2	78	19	15	248	22	-	384

ACTIVE IMMIGRANT VISA APPLICANTS REGISTERED AT CONSULAR OFFICES

AS OF JANUARY 1988

FOREIGN STATE	PREFERENCE 1ST	2ND	3RD	4TH	5TH	6TH	NONPREF.	TOTAL
SENEGAL	2	17	2	1	64	1	2	89
SEYCHELLES	-	11	-	-	142	-	-	153
SIERRA LEONE	-	174	9	-	227	60	-	470
SINGAPORE	4	175	75	21	921	136	20	1,352
SOLOMON ISLANDS	-	-	-	-	14	-	-	14
SOMALIA	-	62	3	-	71	5	-	141
SOUTH AFRICA	37	248	262	187	2,404	551	389	4,078
SPAIN	18	397	79	116	1,564	420	434	3,028
SRI LANKA	4	243	76	30	2,532	246	20	3,151
ST CHRISTOPHER AND NEVIS	24	544	1	39	1,011	1,064	1,645	4,328
ST LUCIA	10	370	16	2	1,193	67	382	2,040
ST VINCENT AND THE GRENADINES	6	350	4	50	1,006	126	70	1,612
SUDAN	-	28	22	4	245	22	2	323
SURINAME	1	71	-	19	173	39	14	317
SWAZILAND	-	-	-	-	4	-	3	7
SWEDEN	17	169	300	65	259	300	119	1,229
SWITZERLAND	7	56	69	14	245	181	138	710
SYRIA	6	942	56	124	5,540	414	33	7,115
TANZANIA	-	125	15	10	2,004	110	46	2,310
THAILAND	42	1,783	50	65	6,302	416	461	9,119
TOGO	-	2	-	-	13	3	-	18
TONGA	3	360	-	33	2,839	73	8	3,316
TRINIDAD AND TOBAGO	99	2,108	25	242	3,140	481	229	6,324
TUNISIA	-	20	6	1	73	17	13	130
TURKEY	3	434	73	27	1,710	460	75	2,782
TUVALU	-	1	-	-	-	-	-	1
UGANDA	4	166	24	6	1,803	13	18	2,034
UNION OF SOVIET SOCIALIST REPUBLICS	9	149	36	47	394	223	179	1,037
UNITED ARAB EMIRATES	-	18	6	4	603	15	8	654
URUGUAY	5	188	12	6	1,113	107	40	1,471
VANUATU	-	-	-	-	7	-	1	8
VENEZUELA	9	556	74	81	1,175	311	221	2,427
VIETNAM	1,306	25,723	16	2,975	93,704	110	137	123,971
WESTERN SAMOA	11	340	-	18	693	8	-	1,070
YEMEN ADEN	17	24	1	11	126	1	1	181
YEMEN SANAA	103	238	1	114	249	8	-	713

ACTIVE IMMIGRANT VISA APPLICANTS REGISTERED AT CONSULAR OFFICES

AS OF JANUARY 1988

FOREIGN STATE	PREFERENCE							
	1ST	2ND	3RD	4TH	5TH	6TH	NONPREF.	TOTAL
YUGOSLAVIA	15	595	46	201	4,511	138	292	5,798
ZAIRE	-	21	3	-	38	17	3	82
ZAMBIA	3	88	14	11	605	18	15	754
ZIMBABWE	3	67	41	34	433	44	22	644
GRAND TOTALS	22,163	379,735	30,412	121,716	1,399,883	76,562	160,692	2,191,163

Senator **SIMON**. Second, I would be interested in getting from all three of you—and I appreciate your testimony, but actually getting the Kennedy-Simpson bill, getting my bill, and putting in your comments—you like this provision, you want that provision changed and indicate how—so we get very specific in terms of how we ought to be drafting this legislation because we are going to have to be marking up very shortly.

If I may follow through on my colleague's question on the children of the unmarried, how many of these are divorced people? I think that makes something of a difference.

Ms. **CLARK**. We do not keep the statistics on the number of divorced people.

Senator **SIMON**. What was that again? Excuse me, excuse me.

Ms. **CLARK**. We don't know whether they are widowed, single, or divorced. We only know that they are no longer married.

Senator **SIMON**. All right. Well, I think that is one area in which we ought to start making a differentiation.

Commissioner, in 1988 the INS said this:

> The current law's 5-year residency requirement to become a citizen adversely affects the backlog in immigration to this country and delays the reunification of families.

Under the proposal I have, we would drop that 5-year requirement to 3 years, so we could reunite families sooner and reduce some of this backlog. Is this a desirable change from your viewpoint?

Mr. **NELSON**. From my point of view, Senator Simon, it is. I think that was part of our suggestion last year, as I mentioned in my earlier testimony, that we ought to put more emphasis on citizenship.

We might want to require a person to be on a citizenship track in order to petition. That is something I think ought to be looked at because we still have—we naturalize ¼ of a million people every year. You know, 600,000-plus are coming in each year as immigrants, so there is still a gap.

A number of people—Hispanics have been historically low in naturalizing. So, it is desirable to move toward a citizenship process. That is the end of the line, the desired result.

So, I think the idea of tying a reduction from 5 to 3 years is a good idea, but it ought to be, we think, tied in with some of these other aspects, and also, again, as I mentioned, why we should remain with a judicial naturalization process.

Senator **SIMON**. Mr. Lawson, in commenting on the labor situation, both of our bills in the point system have a 10-point preference for ages 21 to 34. Won't that, in a sense, encourage more younger people to come in to contribute to our economy?

Mr. **LAWSON**. I am not sure I really follow your question, Senator Simon. Excuse me, could you amplify a little bit on that?

Senator **SIMON**. In getting to our bills, take a look at the point system and how it applies to age to see if, in fact, we are doing something to deal with the labor problem in the future.

Mr. **LAWSON**. Right; I understand now. I will supply that to you, Senator.

Senator **SIMON**. Then in the one bill, there is a 20-point preference for knowledge of the English language. It means that if you are an engineer in France, you are on the same level—and let me address this to the Commissioner, also—you are on the same level as someone from an English-speaking country who has no skills whatsoever.

From the viewpoint of the Department of Labor, is that desirable?

Mr. LAWSON. I think that is a desirable thing overall, yes, I do.

Senator SIMON. But you end up with no preference to someone who is an engineer who has skills that can help this country.

Mr. LAWSON. That is true, we have seen from past studies and experience that the English is very, very important. When the immigrant comes here also determines how quickly he can learn English. It is a proven fact that if he is younger, he can pick it up much quicker.

I would lay very great stress on the issue of whether or not he is able to speak English. I think that is a very important factor.

Senator SIMON. Commissioner, any comment?

Mr. NELSON. I agree with Mr. Lawson. That certainly is an important factor. In the bill that we proposed last time, I think we put ten points on that. It is debatable on the points, but we agree that English language is a very important factor.

Senator SIMON. And then finally, Ms. Clark, the Selection Commission on Immigration suggested that these huge backlogs encourage illegal immigration. GAO is going to testify a little later this morning, and I am quoting, that "the length of the current waiting list and limits on admissions in S. 358 would mean that it could be nearly 75 years before petitions filed now would be acted upon."

Is that going to encourage—and I would ask the Commissioner this, also—is that going to encourage more illegal immigration? What is your feeling, Ms. Clark?

Ms. CLARK. I would say yes, because an awful lot of people want to get into this country. It is certainly a magnet for everybody who wishes to have a better way of life, and we have certainly seen it in all of the various programs that we have.

The diversity program is the latest that we have launched this month. The response has been phenomenal, really.

Mr. NELSON. I agree with Secretary Clark that backlogs are a factor in increasing illegal immigration, and that is one reason we ought to address those. I believe it is the Canadian and/or Australian system that has basically sort of a 3-year—you are either in or out within that time, and I think that concept makes some sense, too.

You apply; you are either going to get admitted or you are not. You are going to know it, rather than the backlog situation. I think that is something we can and should move toward.

Senator SIMON. As you look over these two bills with specifics, I would welcome suggestions. We may not agree with all of them, but we would like to have those specific suggestions.

Thank you, Mr. Chairman.

Senator KENNEDY. Thank you very much. Thank you all; we appreciate your testimony.

We now welcome the panel from the GAO represented by Eleanor Chelimsky, Assistant Comptroller General for Program Evaluation and Methodology at the GAO. In introducing the GAO this morning, let me note that the work they are reporting upon was requested by me last year. It was an idea that grew out of our hearings last year when our witnesses commented that in the immigration field Congress tended to act on the basis of certain assumptions, but then unintended consequences would flow from those actions.

To deal with those concerns, I asked the General Accounting Office to make a study on the future flow of immigration to the United States under two different scenarios—if we did nothing and the current law was maintained and, two, if the Kennedy-Simpson bill were passed.

Finally, I want to stress that a key feature of our bill is that it is only for 3 years. The President and the Congress must review our immigration flows and adjust them accordingly at the end of 3 years, and every year thereafter.

I think the principal findings of the GAO reinforce the need for us to periodically review and adjust our legal immigration system, and I welcome their testimony here this morning.

STATEMENT OF ELEANOR CHELIMSKY, ASSISTANT COMPTROLLER GENERAL, PROGRAM EVALUATION AND METHODOLOGY DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY BOB YORK, STUDY DIRECTOR, AND ERIC LARSON, PROJECT MANAGER

Ms. CHELIMSKY. Thank you, sir.

Senator KENNEDY. Do you want to introduce your colleagues?

Ms. CHELIMSKY. Yes; I was just going to do that. First, I was going to say good morning.

Senator KENNEDY. Good morning.

Ms. CHELIMSKY. Let me introduce them immediately. This is Bob York, who was the study director for our evaluation, and this is Eric Larson, who was its project manager.

Well, it is a pleasure to be here today to talk about the preliminary results of our study on likely impacts of the Kennedy-Simpson bill, which, of course, is Senate bill 358. I thought what I would do is just go over the highlights of my testimony and try to clarify it to the degree I can, but I would ask that the full statement be made a part of the record, if that is possible.

As you know, we developed our own estimates of the likely effects of Senate bill 358 based on an analysis and synthesis of data presented by a distinguished panel of experts. We set out to answer three prospective questions.

The three questions are: How is Senate bill 358 likely to change the number and distribution of immigrants to the United States?

Senator KENNEDY. If you would hold, we are going to have difficulty—we are very good at handling charts. [Laughter.]

Maybe if we could just take one chart at a time, it might be the best. We will do that, if that is OK, and then we can change them as we move. Would that be OK?

Ms. CHELIMSKY. OK, great.

Senator KENNEDY. We can do it in whatever order you want. I think we would be able to see them better and understand them.

Ms. CHELIMSKY. OK, it sounds good.

We have three questions, then, that look to the future. How is Senate bill 358 likely to change the number and distribution of immigrants to the United States? How is it likely to change the visa waiting lists? And how is it likely to change labor market immigration? A final question relates to the bill's objectives and how likely we think they are to be achieved.

I have five findings to report to you. Overall, we found that immigration would not be much changed across the two bills. We found, overall, 6.1 million for current law, 6.2 million for Senate bill 358. But within the dimensions of the bill, within the immediate relative and family preference categories, we saw some changes.

We would expect immediate-relative immigration to grow steadily until 1995, under both the current law and Senate bill 358, at about 6 percent annually, which continues current rates of growth. You can see that increase on the chart which is over there. That is also on page 11 of my statement, for anyone who can't see that chart. The black line represents the current law and the dashed line shows Senate bill 358.

So, until 1995, what we are saying is that they would grow together. Then under the current law, we estimate a greater increase in immediate-relative immigration starting in 1995 based on petitions coming from IRCA beneficiaries. We believe this should total about 150,000 people through 1999. This is under current law.

We also expect another increase, under Senate bill 358, coming from spouses and children entering because of the selected immigrants program. And the reason we believe that is going to happen is because they don't have derivative status and we don't expect them all to be single. So, we assume that later they will petition for their children and wives.

The second finding deals with family-preference immigrantion. Under the current law, we show 216,000 immigrants entering yearly in this category.

Senator KENNEDY. Let me understand that.

Ms. CHELIMSKY. Yes, certainly.

Senator KENNEDY. Isn't this the family preference, this first chart you have up here?

Ms. CHELIMSKY. No; this is the immediate-relative; it is family-connected.

Senator KENNEDY. OK, and that is about—it is about 240,000 in current law. Is that correct?

Ms. CHELIMSKY. Yes.

Senator KENNEDY. And that is what that steady line across is, what you project over the period of time. Is that correct?

Ms. CHELIMSKY. No; the steady line is current law.

Senator KENNEDY. All right.

Ms. CHELIMSKY. And the dashed line is what we expect with Senate bill 358.

Senator KENNEDY. Those are the close relatives, the immediate family?

Ms. CHELIMSKY. Immediate, exactly.

Senator KENNEDY. OK.

Ms. CHELIMSKY. It all gets confusing because of family connectedness versus family preference.

Senator Kennedy. We have got you.

Ms. Chelimsky. Good.

Senator Kennedy. So far, so far. [Laughter.]

Ms. Chelimsky. Onward and upward. OK. Now, we can go on to family preference. Under the current law—have we got that?

Senator Kennedy. Which chart do you want?

Mr. York. The one the young woman has.

Ms. Chelimsky. That one, yes; that is the one.

Senator Kennedy. Put that one up, if you would be so kind.

Ms. Chelimsky. This is the modern age of technology we have here. Sorry about that.

All right. Under the current law, then, we show 216,000 immigrants entering yearly in that category, as you can see from the chart, which is also on page 12 of my statement.

Now, under Senate bill 358 we have two projections, one keeping the bill's 440,000 limit, which is reflected in the dashed line there, and one with a 5-percent increase starting in 1994 that the subcommittee asked us to estimate, and that is shown by the thick black line.

Now, with the dashed-line 440,000 limit, what we are projecting is a drop in the number of family-preference immigrants that could bring their total down to zero by about 1998.

This is because the increases in immediate-relative immigration that you saw in the first chart are used to reduce family-preference immigration. In other words, the drop occurs because of the linkage that we now have between immediate and family-preference immigration.

You can see this relationship even better if you look at the third chart over there that shows immediate-relative and family-preference estimates together.

Senator Kennedy. Basically, if you could put back that second chart——

Ms. Chelimsky. The second chart is the crucial one.

Senator Kennedy. The larger area now that is gradually squeezed out represents everything outside of the immediate family?

Ms. Chelimsky. Yes, exactly.

Senator Kennedy. And that is the flow line as it squeezes down by the year 1999?

Ms. Chelimsky. Exactly. If I had to make one crucial point in this testimony, that is it.

OK. Now, even with a 5-percent increase, the drop in family-preference immigration would still be considerable compared to current law, but less so, of course, than under the straight 440,000.

Senator Kennedy. That is represented by the darker line, the middle line?

Ms. Chelimsky. Exactly.

Senator Kennedy. So, if you get the five-percent increase——

Ms. Chelimsky. It is a little better.

Senator Kennedy [continuing]. Then you still permit the entrance of the others outside what we call the immediate family?

Ms. Chelimsky. Exactly, exactly, but it is not that much better. To give you a sense of the numbers involved over time, between 1990 and 1999, we estimate 2.2 million family-preference immigrants under current law, 1.2 million—that is a million less—under the 440,000 limit, and 1.6 million under a five-percent increase. So, you can see what the relative changes are.

Third finding: We think the distribution of family-preference immigration will also change as we move to Senate bill 358 from current law. Here we have another diagram, our block diagram, yes—a proliferation of riches that I wish I had left back at the GAO.

Senator KENNEDY. No.

Ms. CHELIMSKY. All right.

Senator KENNEDY. This helps.

Ms. CHELIMSKY. Our block diagram shows a projection under current law, and two projections for Senate bill 358 on the right, the same ones I talked about before, one at the 440,000 limit—that is the middle one—and a five-percent increase on the right. That is figure 3 on page 16 of my statement.

You can see that we expect the balance between 8 high-demand countries—the high-demand block is the second one in each illustration—to shift between the 8 high-demand countries and the 167 others, because of pressures on family-preference immigration.

Now, note that both of the Senate bill 358 projections reverse the pattern under current law which gives those 8 countries more family-preference immigration than the other 167, as you were saying earlier, Senator.

Under current law, 167 countries have only about 48 percent of available family preference visas, versus 52 percent for the 8, whereas under either of the Senate bill 358 projections we expect the 167 to have 60 percent and the 8 to have 40 percent.

But while the balance does shift, as you can see from those numbers, it is also true that the eight high-demand countries clearly continue to dominate family-preference immigration even under Senate bill 358.

Senator KENNEDY. So, even with our legislation, you are saying that the eight countries still——

Ms. CHELIMSKY. They have got 40 percent; that is 5 percent each.

Senator KENNEDY [continuing]. End up with 40 percent?

Ms. CHELIMSKY. Right, and 167 have 60. So, the pattern of domination is still there, but it is mitigated.

My fourth finding concerns the visa waiting list. Now, this is hard to project, as you know, as you heard Ms. Clark say, because, among other things, we can't tell how conditions will change in the sending countries or what the desire to emigrate will be.

But we can at least describe some of the pressures that are caused by large groups of people likely to be added to waiting lists. We think the increases proposed in second preference admissions would be offset entirely by the reductions we project in family-preference immigration.

We would expect the fifth preference waiting list to be hard hit as well. Under current law, an approved fifth preference petition filed this year would not get a visa until about 20 years from now. And as Senator Simon said a moment ago, under Senate bill 358 the waiting period would increase to at least 75 years.

My fifth finding relates to labor-market-based immigration. We were unable to deal well with this issue for a variety of reasons that I have explained in the statement.

For example, we can't predict how Senate bill 358 would affect the occupational characteristics of immigrants because current data on immigrant occupations simply aren't good enough.

But we do estimate a four-fold increase from 24,000 actual workers entering annually under current law—by actual workers, I mean not their spouses and children, but the workers themselves—to 98,500 in 1994 under Senate bill 358. So, there is a real change.

What, then, do we think of the bill's chances to fulfill some of its objectives? Well, first, we think the objective of favoring the immigration of closer rather than more distant relatives of U.S. citizens and residents is likely to be met.

Second, adding the class of selected immigrants and increasing the educational requirements for the third and sixth preferences should increase the representation of people whose occupational skills and education are at a higher level than under current law.

We think, however, that the separate tracks for family-connection immigrants and independent immigrants may not be realized, or only imperfectly so, because of strenuous competition likely to occur between the two groups over time.

The fact that selected immigrants can't bring in their spouses and children will surely, in our view, put immediate pressure on second preference immigration in an already very much constrained environment.

With regard to stimulating immigration from countries now virtually excluded, we think Senate bill 358 would indeed modify the distribution of family-preference immigration as it exists under current law. But as I said earlier, the eight high-demand countries would still dominate the picture.

Finally, with regard to building flexibility into our immigration legislation to cope with future uncertainties, we think two of the bill's provisions will help a great deal, the one calling for a periodic review of immigration impacts, and the other allowing for changes in immigration levels to respond to changing conditions in the world.

Finally, Mr. Chairman, I would note that Senate bill 358 seems to me to create an incentive for immigrants generally, and especially selected immigrants, to become naturalized citizens rather than residents.

We see it doing this in three ways: first by favoring closer rather than more distant relatives; second, by not allowing selected immigrants to bring their spouses and children with them under the same class; and, third, by confronting selected immigrants with potentially long waits and difficulties in using the second preference to bring their families in.

This clearly gives them an incentive to become naturalized because then they could bring them in under the immediate-relative provision automatically. The question I would have is whether there may not be some tension between such pressure to naturalize and a strong, free flow of highly educated, skilled immigrants.

That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you may have.

Senator **KENNEDY**. That is excellent testimony and extremely valuable to us in terms of anticipating future flow lines.

Ms. **CHELIMSKY**. Thank you, sir.

Senator KENNEDY. When we undertook the 1965 act, we weren't able to really estimate those flow lines other than eliminate the particular provisions of discrimination and hope then, when we did, that we were going to get into a fairer kind of distribution among the countries of the world with the new preference system. But we have seen this now skewed in a certain way which we never anticipated for reasons that we never could have thought of.

I think it does demonstrate the importance of Congress continually revisiting these issues, which both under Senator Simpson's and my chairmanship we have committed ourselves to do. And I think you make a very powerful case about shortening the time for naturalization and citizenship, for the reasons that you have outlined here.

Just finally, as I understand from your earlier testimony, the basic numbers are the same under both?

Ms. CHELIMSKY. Oh, yes, 6.1, 6.2; it is negligible.

Senator KENNEDY. OK. I find it very helpful.

Ms. CHELIMSKY. Thank you, sir.

Senator KENNEDY. Thank you very much. We appreciate your getting your testimony up here early, too, because we had a chance to go over it and go through it. I want to thank Bob York and Eric Larson of the GAO as well; they have been very helpful to the subcommittee. This is an excellent product.

Senator Simpson.

Senator SIMPSON. Thank you, Mr. Chairman. Certainly, the GAO is a very distinct player in this, and that is why it is so important to have your views, and to have your full views.

If you will put that chart back up about all family-connected immigration, please, right there, yes, now that shows both immediate relatives and other more distant family-preference immigration.

Now, does that chart indicate that overall family-connected immigration will increase under the Kennedy-Simpson bill?

Ms. CHELIMSKY. I think the whole thing depends on whether you have a 5-percent increase.

Senator SIMPSON. Yes, but even without the 5-percent increase, the family immigration would continue to grow under the new bill?

Ms. CHELIMSKY. Oh, yes, it would, sir.

Senator SIMPSON. Yes; I think that is very important.

Ms. CHELIMSKY. Yes.

Senator SIMPSON. I think that gets a little lost here. We want to remember that. I just thought I would throw it in.

Ms. CHELIMSKY. Yes, it does grow.

Senator SIMPSON. That is very important because if there is a squeeze, the squeeze is on more distant relatives, except, under the definition of certain ethnic groups who will be testifying here today. Our object is to unify the closest family members—that is what we are up to—and to get more numbers for that purpose.

Diversity is a key to this legislation, plenty of it, so that we don't have to do lotteries and things like that, which are—I think the Chairman and I would both agree—not the way to do our business, especially when you have, what was it Ms. Clark said, 10 to 20 million applications for 20,000 visas. That is extraordinary.

Our job, and what we have been doing through the years, is to try to do that. But what it comes down to, then, perhaps is that the only way we can avoid this reduction and perhaps even elimination of the more distant family preferences is to add more numbers or increase immigration, is that correct?

Ms. CHELIMSKY. Well, yes, I would think so. I just want to say that I was not making the case of how the numbers should go. I wasn't taking a normative position about that. I was just saying that what we are talking about here—our testimony is simply what we found if you apply certain assumptions and projections about how things would go.

I was not saying that it should be higher or lower. That was not the point.

Senator SIMPSON. Well, I think we want to be sure here that there is nothing mean-spirited in what we are presenting. This Kennedy-Simpson bill would not cut the present level of family-based immigration. Our bill merely checks the uncontrolled growth that is allowed by current law. I think that is what we want to be sure is heard for the record.

I think your figures were that under the Kennedy-Simpson bill, 6.2 million people would emigrate during the 1990's, and under current law 6.1 million people would emigrate during that decade.

Ms. CHELIMSKY. Exactly, yes.

Senator SIMPSON. So, that is correct.

Ms. CHELIMSKY. It is negligible, yes.

Senator SIMPSON. And if the 5-percent increase is approved in 1995 and 1998, what would be the total number of immigrants for——

Ms. CHELIMSKY. 6.6 million.

Senator SIMPSON. For 1990 to 1999 under our bill?

Ms. CHELIMSKY. With the 5-percent increase.

Senator SIMPSON. OK, and then you speak of that most fascinating point that under current law, 8 countries receive more family-preference visas than all of the remaining 167 countries in the world.

Ms. CHELIMSKY. Currently.

Senator SIMPSON. Currently?

Ms. CHELIMSKY. Yes. The ratio is 52 to 48 percent.

Senator SIMPSON. And if this situation continues during the next decade—it would continue if current law were left unchanged, certainly.

Ms. CHELIMSKY. Yes.

Senator SIMPSON. And it would then, as you say, continue to go on that course under this proposed legislation, also.

Ms. CHELIMSKY. Under the proposed legislation, it would turn around; it would reverse the pattern.

Senator SIMPSON. Well, yes, the situation would change under the Kennedy-Simpson bill.

Ms. CHELIMSKY. Yes.

Senator SIMPSON. Well, we thank you, and I will be looking forward to reviewing that in great detail. You know, our purpose is diversity and a linkage of closer family members with getting back to a classic or seed immigrant philosophy, and I still think those are good goals. So do our colleagues.

Thank you.

Ms. CHELIMSKY. Thank you, sir.

Senator KENNEDY. Senator Simon.

Senator SIMON. Thank you. I have the feeling of competence when I hear you testify, and I appreciate that.

Ms. CHELIMSKY. Thank you, sir.

Senator SIMON. You say the additional 90,000 visas under Senate bill 358 for the reduction of the fifth preference class waiting list would go to immigrants from two countries, Mexico and the Philippines, because they have the earliest registration dates. Explain that to me.

Ms. CHELIMSKY. Would you like to explain that, Eric?

Senator SIMON. The earliest registration dates—how does that differ from Hong Kong or some place else?

Mr. LARSON. When applicants sign up, the time that they sign in is stamped on the form. That becomes their priority date, and Mexico and the Philippines have the earliest dates.

Senator SIMON. They have the longest waiting list, is that what you mean?

Mr. LARSON. Mexico and the Philippines have the longest waiting lists, yes, but the distinction of importance here is the registration date. Mexico and the Philippines have the earliest registration dates. When visas are made available they are released according to those dates, to the extent allowable under per-country limits. When we asked the GAO legal department, and also the State Department about how the additional 90,000 visas would be distributed, both of them advised us that all the numbers would go to Mexico and the Philippines because of the early registration dates and because no per-country limits were placed upon these particular visas. Normally, there are per-country limits on visa usage.

Senator SIMON. Why is there an earlier date from the Philippines and Mexico, simply because we haven't absorbed them?

Mr. LARSON. Because there are a tremendous number of applications from those countries. The annual number of applications is considerably larger than the number of visas that are made available.

Senator SIMON. And it is just a longer waiting list?

Mr. LARSON. Yes; the per-country limits aren't great enough to absorb the volume of applications very quickly, and long waiting lists result.

Senator SIMON. All right. In a footnote in your testimony here you say,

> Note that a child older than 7 who entered the United States by December 31, 1981, the cut-off date to be eligible for legal immigration status under IRCA, would be older than 21 by 1996 and ineligible, by definition, to emigrate as an immediate relative.

Is that accurate?

Mr. LARSON. Yes, that is correct. We need to recognize there is a time limit with respect to positioning for children. By definition, an immediate relative would have to be an unmarried child under 21 years of age. If the child was older than 7 at the cut-off date for IRCA, the child would be older than 21 by the time we could expect his or her parent to become naturalized and petition for him or her. If the child qualified under IRCA, there obviously would be no immediate-relative petition. A child older than seven who was outside the United States on the cut-off date for IRCA would be too old to qualify as an immediate relative by 1996.

Senator **Simon**. In order to admit that child, we have to change the definition of immediate family or do something?

Mr. **Larson**. Yes, or petition through a different class.

Senator **Simon**. Historically, what did we do in 1920 or 1910, in terms of family preference for a brother or a sister?

Ms. **Chelimsky**. Can you speak to that?

Mr. **Larson**. Not extemporaneously.

Ms. **Chelimsky**. No; We would have to get back to you. I can tell you what the size of the immigration was in 1900, but that is not what you asked me.

Senator **Simon**. All right. I would be interested in seeing what we have traditionally done in this country.

Ms. **Chelimsky**. Certainly.

Senator **Simon**. Second, if it is not too much work, I would like to see those same graphs for Senate bill 448 and see how my bill compares to current law.

Ms. **Chelimsky**. We will be happy to, sir, yes.

Senator **Simon**. OK.

Ms. **Chelimsky**. We will try.

Senator **Simon**. All right, thank you. She answered yes. I saw some skepticism on the part of your colleagues. [Laughter.]

Mr. **York**. We haven't reviewed your bill yet, Senator.

Senator **Simon**. I like her answer better.

Ms. **Chelimsky**. But we have an interesting relationship. I can tell him what to do. [Laughter.]

Senator **Simpson**. Won't we have to get a new roof for the building? [Laughter.]

Senator **Simon**. Thank you very, very much for your testimony.

Ms. **Chelimsky**. Thank you, sir.

Senator **Simon**. Thank you, Mr. Chairman.

Senator **Kennedy**. Thank you very much; very fine work, very helpful to the subcommittee. I think it would be useful, and Senator Simon mentioned to you, in fairness to him, we want to try and move this legislation. I think it is fair to have some further estimation that he requested. But to the extent that you can move that along, we would very much appreciate it.

[The prepared statement of Ms. Chelimsky, along with questions and answers, follows:]

United States General Accounting Office

GAO

Testimony

For release
on Delivery
Expected at
9:30 a.m. EDT
Friday,
March 3, 1989

IMMIGRATION: S.358 WOULD CHANGE THE DISTRIBUTION OF IMMIGRANT CLASSES

Statement of
Eleanor Chelimsky
Assistant Comptroller General
Program Evaluation and Methodology Division

Before the
Subcommittee on Immigration
and Refugee Affairs
Committee on the Judiciary
United States Senate

GAO/T-PEMD-89-1

INTRODUCTION

Mr. Chairman, Members of the Subcommittee:

It is a pleasure to be here today to summarize the preliminary results of GAO's study of the projected impacts of the Kennedy-Simpson bill in response to Senator Kennedy's request. We conducted an assessment of future trends in legal immigration over the next 10 years based on current law and the new bill. Our original assessment was of the previous bill, S.2104; since S.358 changes the effective date of the proposed legislation 1 year--from fiscal year 1990 to 1991--we revised our assessments of S.2104 accordingly to provide you with the most timely information that we can.

Before discussing our results, let me review the way we did our analyses and the evidence we used. We assembled a distinguished panel of immigration experts affiliated with academic, government, and other institutions (see the listing in attachment A). We focused on likely effects of S.358 in terms of changes in three areas: (1) the numbers of immigrants; (2) the visa waiting list; and (3) labor-market-based immigration. We then asked the experts to predict trends in these three areas under current law and the new bill, using whatever data were available and useful to support their answers. Much of their analyses consisted of projections from data bases on visa number use and from waiting lists maintained by the Immigration and Naturalization Service (INS) and the State Department, respectively, and how the laws are likely to operate. We at GAO then reanalyzed these various projections, and synthesized the results to develop our own estimates.[1] Based on this work, we present independent answers to the three questions on the likely trends under current law and S.358.[2] Let me now summarize the main features of S.358.

CHANGES PROPOSED TO CURRENT LAW BY S.358

The bill proposes to change legal immigration in three major ways:

1. It would change the system for allocating family preference visas by basing the number to be made available upon the level of immediate-relative immigration. Within an overall annual limit of 590,000 visas, 440,000 would be reserved for family-connected immigration. This contrasts with a limitation of 216,000 family preference visas under current law with no linkage to immediate-relative immigration, which is unlimited. "Family connection" immigration is the

---

[1] Like all estimates, those presented here are subject to exogenous influences that may cause inaccuracies, e.g., an unforeseen change in U.S. foreign policy, or a change in the policies of sending countries.

[2] We also used previous GAO work on projecting legal immigration. See IMMIGRATION: The Future Flow of Legal Immigration to the United States. GAO/PEMD-88-7. (Washington, D.C.: U.S. Government Printing Office).

sum of family preference and immediate-relative immigrants. Immediate relatives--the spouses, unmarried children under 21, and parents of U.S. citizens age 21 or older--would not be limited, but if the 440,000 level of family connection visas were exceeded, the number of family preference visas for the following year would be reduced accordingly.[3] In fiscal year 1987, 220,000 immediate relatives immigrated, for a total (including the family preferences) of 436,000 family connection visas.

2. Compared to the preference system under current law, the bill would provide more visas to unmarried adult children (under 26) and spouses of U.S. resident aliens (2nd preference class), and fewer visas to brothers and sisters of adult U.S. citizens (5th preference class), within the family preference limitation.

3. It would create under the overall category "independent immigrant" a new class of "selected immigrants" who would qualify on the basis of criteria such as their education, English language ability, and occupation. There would be an initial 120,000 annual limitation for independent immigrants, of whom at least 45 percent (54,000) would be selected immigrants. The overall annual limit of 590,000 visas would

---

[3] Family preference visas are made available to certain immigrants on the basis of their relationship to a U.S. citizen or permanent resident.

include both independent immigrant and family connection visas.[4]

Table 1 contrasts the main features of S.358 with those of the current law. Note that of the four family preference classes, only the 2nd and 5th preference class definitions would be changed under S.358. The current 3rd and 6th preference classes, which are occupationally based, would be included in the independent immigrant category under S.358, and eligibility restricted somewhat to more educated and more skilled workers. The major new category under the independent immigrants is that of selected immigrants, who would be chosen according to a new point system, and would make up 45 percent of total independent immigrants.

The bill establishes procedures for changing the numerical limits starting in fiscal year 1994. The President can recommend to the Congress a change in either the 440,000 family connection level, the 150,000 independent immigrant level, or the total 590,000 level. If the recommended change is 5 percent or less for a 3-year period it would go into effect unless the Congress

---

[4] During fiscal years 1991-93, the 440,000 family connection level is temporarily increased to 470,000 because 30,000 additional visas have been allocated for reduction of the 5th preference waiting list during that period. In fiscal year 1994, these 30,000 visas are reallocated to the independent immigrant category for a total of 150,000. Therefore, the annual limit of 590,000 is maintained under both allocations.

Table 1: Comparison of Provisions and Visa Numbers in the Current Law and S.358, Based on Fiscal Year 1987 Data

	Category description		Numerical limitation		
Immigration category	Under current law	Under S. 358	Under current law	Under S.358	
				No.	%
1. Family Connection					
Exempt	Immediate relatives: spouses, unmarried children under 21, and parents of adult U.S. citizens	No change	No limit^a	No limit	b
Family preference	1st: unmarried adult sons and daughters of U.S. citizens	No change	54,000	33,000	15%*
	2nd: spouses and unmarried sons and daughters of permanent residents	Limited to spouses and unmarried sons and daughters under 26	70,200	143,000	65
	4th: married sons and daughters of U.S. citizens	No change	27,000	22,000	10
	5th: brothers and sisters of adult U.S. citizens	Limited to never married brothers and sisters	64,800	22,000^c	10
Total: family preference			216,000^d	220,000^e	100
2. Independent	Special immigrants (ministers of religion, for example)	No change	No limit	6,000	5**
	3rd: professions and exceptional ability	Advanced degree required for professions	27,000	27,600	23

* Percent going to each category after numbers reserved for immediate relatives of U.S. citizens.

**Percent going to each category of total independent visas.

6th: skilled and unskilled workers	Limited to skilled workers	27,000	27,600	23
[f]	Employment-generating investors: one million capital plus 10 full-time jobs[g]	[f]	4,800	4
[f]	Selected immigrants chosen according to new point system	[f]	54,000	45
Total: independent/other preferences		54,000	120,000	100

---

[a] 220,000 immediate relatives immigrated in fiscal year 1987.

[b] Not applicable

[c] This does not include the addition of 30,000 per year for fiscal years 1991-93 to reduce the current 5th preference backlog.

[d] This total excludes immediate relatives.

[e] Number may fluctuate according to the number of immediate relatives entering the United States in the previous year, here assumed to be 220,000.

[f] No such category under current immigration law.

[g] For United States citizens or aliens lawfully admitted for permanent residence rather than the family of such immigrants.

Source: U.S. Senate, Immigration Act of 1988 Report 100-290, 100th Cong., 2nd sess. (Washington, D.C.: U.S. Government Printing Office, 1988). GAO has adapted this Senate report on S.2104 to S.358.

changes it by joint resolution. If greater than 5 percent, it would become effective only by a joint resolution approving the change.

Of the many objectives of S.358 that were discussed in the Senate report,[5] we considered the following five:

1. To increase the number of immigrants admitted on the basis of labor market characteristics, rather than upon their family relationships, and to ensure that "a larger proportion of immigrants will be subject to labor market and skills tests."

2. To provide more-equal access by creating "two separate immigrant-visa 'preference systems': one for close family members, another for 'independent' immigrants." Under S.358, "the family preference will no longer compete with the jobs-related 'independent' preferences." This was also a recommendation of the Select Commission on Immigration and Refugee Policy in 1981.

3. To stimulate immigration "from the earlier sources of immigration to [the United States]," particularly by "those now virtually excluded" because "they have no family connections in the United States."

---

[5] U.S. Senate, Immigration Act of 1988 Report 100-290, 100th Cong., 2nd sess. (Washington, D.C.: U.S. Government Printing Office, 1988). GAO has adapted this Senate report on S.2104 to S.358.

4. To alter the distribution of family-related admissions by "giv[ing] higher priority to the closest family members."

5. To provide flexibility in the immigration system.

Given these changes, then, what impacts can we expect from the new law with regard to the numbers of immigrants?

NUMBERS OF IMMIGRANTS

Overall

We estimate that the total number of immigrants during the 10-year period 1990 to 1999 will be approximately the same under current law and S.358, that is, about 6.1 and 6.2 million, respectively, if one assumes no change in the 440,000 annual worldwide limitation. The Subcommittee asked us to apply a 5 percent increase to the 440,000 limitation annually beginning in fiscal year 1994. A higher number of immigrants--an estimated 6.6 million--would enter during the 10-year period under this increase in the limitation.[6] The distribution by major immigrant classes, however, is likely to be very different under current law and S.358.

---

[6] We note that such an increase, which would be greater than 5 percent during a 3-year period, would require approval by the Congress by joint resolution.

Family Connection Immigration

With respect to family connection immigration (that is, the aggregation of immediate-relative and family preference immigration), figures 1 and 2 display our results.

Figure 1 shows that we project a steady increase in immediate-relative immigration under both current law and S.358 through 1995. We selected an average annual rate of increase of 6.2 percent as a reasonable estimate because it represents the relatively stable rate of growth experienced in the period 1970-87. We expect a substantial increase in immediate-relative immigration in 1996--about 150,000 through the end of our projections in 1999--associated with petitions from Immigration Reform and Control Act of 1986 (IRCA) beneficiaries.[7] Under that act certain undocumented aliens were eligible to apply for temporary resident status, which could subsequently be adjusted to permanent resident alien status. By 1996, participants who subsequently became naturalized citizens

---

[7] If current rates of naturalization and petitioning for immediate relatives by country of origin for legal immigrants are applied to IRCA beneficiaries, then a maximum of about 300,000 immediate relatives could be expected. Our estimate is half of that amount. Note that a child older than 7 who entered the United States by December 31, 1981--the cutoff date to be eligible for legal immigration status under IRCA--would be older than 21 by 1996, and ineligible by definition to immigrate as an immediate relative. Also, by 1996 an IRCA immigrant would have been in the United States for a minimum of 15 years, and many probably longer. The parents of these immigrants would be correspondingly older and closer to death.

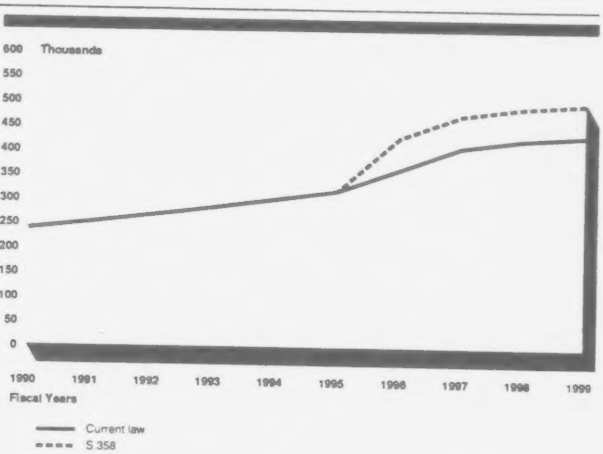
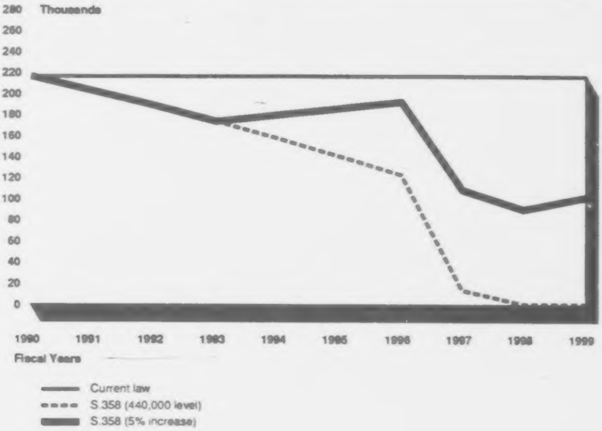


Figure 1: Estimated Annual Immediate-Relative Immigration Under Current Law and S.358 During Fiscal Years 1990 to 1999

Figure 2: Estimated Annual Family Preference Immigration Under Current Law and S.358 During Fiscal Years 1990 to 1999



could petition for their immediate relatives to enter the United States.

Figure 1 also shows a further increase in immediate relatives associated with S.358. This represents the spouses and children under the "selected immigrants" program. That program does not provide derivative status, meaning that spouses and children of selected immigrants cannot enter the United States under the selected immigrant program simply because they are relatives of selected immigrants. Put another way, all selected immigrants, including spouses and children, must qualify for such status by achieving a sufficient point score based upon their labor market and skill characteristics and other attributes. The corollary of that finding is that when the selected immigrants later become citizens, they can petition for their spouses and children to enter under the immediate relative category.

Figure 2 shows quite different patterns for family preference immigration. Under current law we project family preference immigration to remain level at 216,000 annually, as limited by law. Under the 440,000 family connection limitation of S.358, the level of family preference immigration would drop steadily. This is because the current year's immediate-relative level is used to determine the next year's family preference limit by subtracting from 440,000. Note the accelerated drop in family preference immigration predicted for 1997, which represents the 1-year "lag" associated with our previously discussed increases in immediate-relative immigration starting in 1996. By 1998-99, we project family preference immigration could drop to zero.[8]

The annual application of a 5 percent increase in family connection immigration--if approved by joint resolutions of the Congress--would moderate the decline in family preference immigration. If the level were increased 5 percent each year starting in 1994, family preference immigration in the period 1990-99 would decline less, from a predicted 2.2 million under current law to 1.6 million, compared with 1.2 million under the 440,000 limit. However, as I noted earlier, the regular utilization of a 5 percent increase in the family connection limit would also produce the highest estimated total immigration of 6.6 million.

Effects on High-Demand Countries and All Other Countries

Under current law, immigration is concentrated among certain countries. For example, in fiscal year 1987, more than half the family-connection immigrants admitted to the United States were from 10 countries. In our projections, we defined a "high-demand" country as a country that is likely to use all of the family preference visas made available to that country up to the maximum per-country limit under current law during the 1990-99 period. We identified 8 such countries and have grouped them for purposes of analysis.[9] Because we lack comprehensive information about the demand for immigration from other countries, we treated all remaining countries as a residual category representing some combination of immigration from the remaining 167 countries of the world.

---

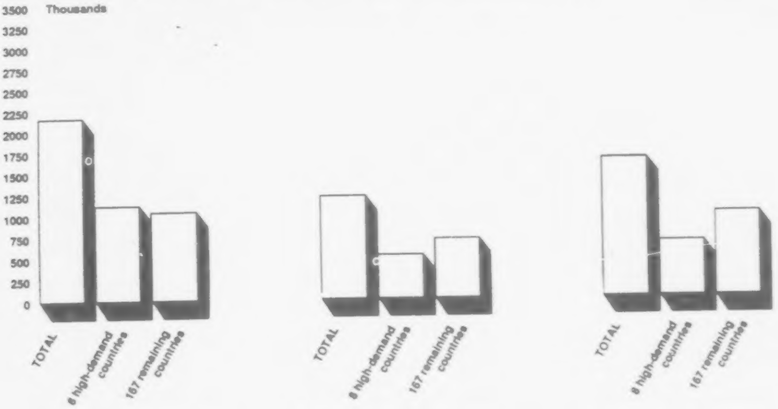
[8] Up to 1995, in Figure 1, our projections reflect what is likely to happen with growth in immediate-relative immigration to within about plus or minus 1 year. The fluctuations in the growth rate we have observed in the past make this a reasonable expectation. For the rest of the projection period there are obviously more uncertainties because of the 2 additional immediate-relative groups--those resulting from petitioning by IRCA beneficiaries and selected immigrants--but we think that in any scenario the family preference limit would be drastically reduced if not eliminated. The drop to zero could occur a year or two later than we show, but is not to occur earlier.

I noted earlier that one of the objectives of S.358 is to stimulate immigration "from the earlier sources of immigration." There is no assurance that S.358 would increase immigration from low-demand countries that were also earlier sources of immigrants, but we predict some lessening of the concentration of family preference immigration among these 8 high-demand countries, as we show in figure 3. Both of the projections of S.358 reverse the pattern under current law in which the 8 high-demand countries have more family preference immigration than the 167 remaining countries. These 167 countries would yield an estimated 1.0 million family preference immigrants during the 10-year period under current law, compared with 701,000 under S.358 with a level

---

[9] Mexico, the Philippines, South Korea, the Dominican Republic, India, China, Great Britain and Hong Kong.

Figure 3: Projected Differences in Distribution of Family Preference Class Visas Under Current Law and S.358 During Fiscal Years 1990 to 1999, Between 8 High-Demand Countries and 167 Remaining Countries



Current law, 1990-99

S.358, fixed 440,000 level, 1990-99

S.358, 5% increase in 440,000 level beginning in 1994, 1990-99 limit, and 988,000 under S.358 with the annual 5 percent increases in the level of family connection immigration.

It is equally important to emphasize that these 8 high-demand countries would continue to dominate family preference class immigration under either of our projections under S.358.

Labor Market-Based Immigration

Before moving to changes in the visa waiting lists, I would like to comment briefly on labor market-based immigration to finish the section on distribution of immigrant classes, but I will return to the topic later.[10] As shown earlier in table 1, the volume of labor market-based immigration would more than double from about 54,000 under current law to nearly 120,000 annually under S.358 for fiscal years 1991 to 1993. It would then increase to nearly 150,000 annually in 1994 and thereafter.

This, then, brings me to our second impact question: the likely effect of the new law on visa waiting lists.

---

[10] We have defined labor market-based immigrants as all independent immigrants except "special immigrants." The latter are certain ministers of religion and other immigrants.

CHANGES IN THE VISA WAITING LIST

Let me begin by pointing out that changes in the waiting list cannot be projected with any great degree of confidence. There are two major reasons for this. First, many important variables associated with demand cannot be addressed by legislation, such as economic and social conditions in the sending country, or the desire to immigrate to the United States. Second, we cannot predict the extent to which people will change places in line--that is, switch to different means of entry, or apply for entry under more than one class. We can, however, describe the pressures that are likely to lead to change in the waiting lists and roughly quantify their overall magnitude.

The rapid dropoff of family preference visas under S.358--assuming no change in the 440,000 limitation--is likely to translate into some increases in the waiting lists. Some immigrants who would have been admitted under current law could be likely to remain on waiting lists. The data in figure 2 showed that over a 10-year period, 947,000 fewer family preference visas would be issued under S.358. If the 440,000 limit increases by 5 percent each year starting in 1994, that net reduction would be somewhat less, 525,000 overall, but that would still probably translate into some increases in the waiting list. We believe that pressures are likely to be greatest on the 2nd and 5th preferences.

Changes in the 2nd Preference Waiting Lists

Under S.358, if the demand for 1st preference visas remains low, then up to approximately 150,000 visas could be issued during the first year (1991) for 2nd preference admissions--spouses and unmarried sons and daughters of permanent residents--compared with about 110,000 to 112,000 visas issued annually under current law. Both estimates include expected falldown from unused, relatively low-demand 1st preference visas. This proposed increase in 2nd preference visa availability under S.358 would be countered by three factors that would each act to increase pressure on 2nd preference waiting lists. First, the number of 2nd preference visas likely to be made available under S.358 would, in the projections we made, at best about equal the number likely to be made available under current law in the long term. Under the 440,000 limitation of S.358, about 840,000 2nd preference visas would be made available during 1990-99. If the 440,000 limit were increased by 5 percent each year starting in fiscal year 1994, the number of 2nd preference visas made available would be about 1.1 million, the same number that would be likely to be made available under current law during 1990-99.

Second, the lack of derivative status for spouses and children of selected immigrants would place immediate pressures on the 2nd preference waiting lists. Selected immigrants can petition immediately for spouses and children, and any such petitions would be added to the end of the current 2nd preference waiting list. We assume 2nd preference petitioning at the rate of 1.2 spouses and children per immigrant, which is the recent average among 3rd and 6th preference occupation-based immigrants. This results in an estimated additional 2nd preference demand totaling about 680,000 during 1991 to 1999. Although most countries do not currently have waiting periods exceeding 2 years, this could change if the list were further pressured by other high-demand countries.

Third, beginning in 1990--under either current law or S.358--the 2nd preference class is likely to face additional pressures from IRCA petitioners for admission of spouses and children who did not qualify for the legalization program. Since the majority of IRCA beneficiaries--about 75 percent--are from Mexico, the current 10-year waiting period for Mexico's 2nd preference class would increase even more. A long-term strategy for IRCA petitioners from Mexico would be to petition for these individuals as immediate relatives after naturalizing. We think about 150,000 such immediate relatives are likely to become immigrants during 1996 to 1999 under both current law and S.358.[11]

---

[11] One member of our expert panel (Warren) did a separate study of the number of immediate relatives that can be expected from IRCA beneficiaries, and our 150,000 estimate is based on our analysis of his study.

Changes in the 5th Preference Waiting List

Admissions from the 5th family preference class--brothers and sisters of adult U.S. citizens--are likely to decrease from about 70,000 annually under current law to an estimated 20,000 or less, under S.358. The current 5th preference waiting list is advancing at about 4 months per year for most countries, and some petitions filed in 1982 have not yet been reached. The reduced admissions in the 5th preference under S.358 would correspondingly reduce advancement in the waiting list to slightly more than 1 month per year. The additional 90,000 visas under S.358 for the reduction of the 5th preference class waiting list would go to immigrants from 2 countries, Mexico and the Philippines, because they have the earliest registration dates. These additional visas would not appreciably reduce any country's waiting list. Also, any additional 5th preference applications would be added to the current waiting list. It should be noted that although limiting new 5th preference applications to "never married" brothers and sisters would drastically reduce new applications, the length of the current waiting list and limits on admissions mean that it could be nearly 75 years before petitions filed now would be acted upon.

CHANGES IN LABOR MARKET-BASED IMMIGRATION

Finally, we looked at changes in labor market-based immigration as our third and last impact area. I noted earlier that the volume of labor market immigration would more than double under S.358. I will first review what we know about the occupational skills immigrants now bring to this country, and what changes could be anticipated under S.358, and then conclude by examining issues about the extent to which immigration meets the occupational demand of the U.S. labor market.

Immigrant Occupational Distribution

We sought information on the occupations of past immigrants in order to assess their impact on the structure of the U.S. work force. An assessment was not possible for two reasons. First, data on immigrant occupations are often missing, unreliable, or both. For example, much of the data are gathered from visa applications and pertain to immigrants before they enter the U.S. labor market; spouses or derivative beneficiaries do not list an occupation; and the measure of occupation is not valid because it can refer to past occupation, current occupation, or intended occupation. The second reason is that high occupational turnover among immigrants would render any occupational projection problematic.

The most consistent occupational data are for the current 3rd and 6th preference classes, which require labor certification. These findings are instructive, but they represent a small fraction --less than 10 percent--of the total immigration stream and are not likely to be representative of that larger stream. The majority of the 54,000 immigrants in these classes are spouses and children, however, and actual workers number about 24,000 annually. In fiscal year 1987, about 42 percent of these actual workers had professional specialty and technical occupations. They were engineers, doctors, architects, scientists, and the like; about 21 percent were in service occupations. Under S.358, the expanded educational requirements would be expected to increase the proportions of professional workers or those with advanced degrees.

Occupational Characteristics of Selected Immigrants

Selected immigrants under S.358 would reflect a highly educated and/or skilled group with occupations the Department of Labor judges as being "in demand." The first selections would be through a random drawing for 20 percent of the slots from among these claiming 80 or more points. To get the 80 points an immigrant must have an occupation that is or will be in demand. Any 80-pointers not selected would be added to the 50-point pool, and a second random drawing would occur. To get 50 points, an immigrant must have (1) a bachelor's degree or (2) an occupation that is or will be in demand.

We think that demand for immigration would fill all available slots. However, until the Department of Labor makes a determination of the occupations that are "in demand", there is no way to predict the likely occupation of selected immigrants.

Extent to Which Current Law and S.358 Meet U.S. Labor Market Demand

To the extent that the Department of Labor can identify occupations "in demand," S.358 would make available annually a minimum of about 11,000 80-point slots representing labor market demand-based immigrants. Some proportion of the remaining 43,000 50-point slots would be awarded based on occupational "points" as noted above.[12] Over the 1991 to 1999 period, this would total 112,000 80-pointers and 450,000 with 50 points or more. These are relatively small numbers when viewed against a projected U.S. labor force of approximately 125 million.

Although U.S. labor market demand cannot be identified comprehensively with available data, demand for certain occupations that reflect the occupational structure of the U.S. economy or shortfalls in our education and training systems can be identified --for example, nursing, and certain scientific occupations.

---

[12] After 3 years, the totals would be 67,500, of which 13,500 would be 80-point slots, and 54,000 would be 50-point slots.

I would also like to point out that even if we did have "comprehensive" data on U.S. labor market demand, such as those that could be obtained by doing some type of demand test in numerous local labor markets, there would always be some disagreement about the value of the data themselves or the value of projections using those data. First, some would argue that our knowledge of labor markets is so limited, and market situations so changeable, that any current survey or projections of labor force "demands" or needs would invariably be wrong. Second, some would argue that increases in the market price for labor would rectify any "demands" for labor. Belief in either of these positions would necessarily invalidate the use of any data on or projections of demand, however "comprehensive." Our point here is that even if we had perfect data, the process that the Department of Labor adopts to measure occupations "in demand" under S.358 would be likely to be controversial. The Canadian experience with a somewhat similar "point system" has involved several changes in methodology.

THE LIKELY IMPACTS OF S.358 IN LIGHT OF ITS OBJECTIVES AND CURRENT IMMIGRATION TRENDS

At this point, Mr. Chairman, I would like to relate what we found in our assessments of changes in the numbers of immigrants, the visa waiting list, and labor-market-based immigration more specifically to the various objectives of S.358, as discussed earlier.

One of the bill's objectives is to increase the representation of persons admitted on the basis of the demand for their occupational and education skills rather than their family relationship to a U.S. citizen or permanent resident. S.358 would increase by fiscal year 1994 the annual number of admissions based on labor market characteristics from 54,000 under the current 3rd and 6th preference classes to nearly 150,000. If one excludes family members brought in under the 3rd and 6th preference classes, the increase under S.358 would be even greater: a four-fold increase from 24,000 slots currently to an estimated 98,500 by 1994. The required labor market and skills tests would ensure that a larger proportion of immigrants will be subject to these tests.

A second major objective of S.358 is to split the current family preference system into separate "family connection" and "independent immigrant" admission tracks. We conclude from our assessment that "family connection immigrants" and "independent immigrants" would be on separate admission tracks only in part. Separate programs are in fact established, separate eligibility criteria are specified, and, as I just noted, specific numbers of slots are allocated for the new independent immigrants program. Yet there is likely to be considerable competition between these two groups. The spouses and children of selected immigrants would increase competition among all those seeking 2nd preference visas. The decreases in family preference immigration imply that the waiting lists could become much longer, and that some persons currently in the family preference classes may seek to enter the pool of selected immigrants.

If pressures on the waiting lists increase, as we predict, some immigrants might seek entry through the nonimmigrant system as students and temporary workers, who are allowed to bring in spouses and children.[13] Some immigrants may seek to enter the United States illegally. These dynamics could imply an increased "gaming" of the system through multiple applications, and an expanded effort by immigrants to seek the quickest route of entry--whatever it may be --depending on such variables as country of origin, family size, and nature of family relationships with persons in the United States. The incentive to reduce waiting times by movements across classes is particularly great for 5th preference applicants--some 1.4 million persons--under S.358.

A third objective of the bill is to stimulate immigration from source countries that in the past have constituted a large proportion of the flow, and that now constitute much less. Our assessment is limited with respect to the degree to which S.358 may be expected to increase immigration from countries "now virtually excluded". First, with regard to family preference immigration, we have noted that either projection of S.358 would increase the proportion of immigrants from countries other than the 8 high-demand countries we studied, and it seems reasonable to assume that the demand for immigration from those other countries would fill those slots. However, it is also the case that under either projection, the 8 high-demand countries we studied would continue to dominate family preference class immigration.

---

[13] There is a high positive correlation between nonimmigrants who overstay their visas and the size of the waiting lists, by country of citizenship.

Second, with respect to independent immigrants, assessment is even more difficult. At least initially under S.358, immigrants from some high-demand countries such as Mexico, the Philippines and South Korea might be excluded from the selected immigrant class because they could use up all their per-country allocations in the 3rd and 6th preference classes. While immigration under the 3rd and 6th preferences would probably initially resemble recent immigration because of immigrants already in the pipeline, we cannot predict trends beyond that time because we have no experience with the new demand. We do not believe that more general predictions can be made about whether or not selected immigrants will increase representation from countries "now virtually excluded." The point system could serve to increase the representation from these and other nations that are currently low-demand countries, but other scenarios are possible.

We conclude that because of the likely reductions in family preference immigration from the 8 high-demand countries we studied, S.358 could--over the next 10 years--make available about 60 percent of the available family preference visas to natives of the remaining 167 countries, compared with about 48 percent under current law. The distribution likely to result under S.358 is, therefore, an important and significant reversal of the trend under current law.

The fourth objective we assessed was altering the distribution of family connection immigrants to favor closer rather than more distant relatives of U.S. citizens and residents. We think S.358 would decrease annual admissions for 5th preference, increase admissions for 2nd preference, and would allow continued immediate-relative immigration without any numerical limitations. Furthermore, the sharp reduction we predict in family preference immigration under the fixed 440,000 limit of S.358 serves to concentrate family-connection immigration among the closest immediate relatives.

I think we need to be aware, Mr. Chairman, that any system of immigration will be subject to pressures resulting from changing domestic and international conditions, and building flexibility into the immigration system is an important way that we can respond to those pressures in a timely fashion. That is the fifth objective of the proposed legislation that we assessed. The bill requires a periodic review of the impacts of immigration upon the United States, and provides for changing the immigration levels. These mechanisms can be used to respond to future pressures and concerns.

That concludes my statement, Mr. Chairman. I will be happy to respond to any questions that you or the members of the subcommittee may have.

ATTACHMENT A

LIST OF IMMIGRATION EXPERTS WE CONSULTED

Robert L. Bach
State University of New York at Binghamton
Binghamton, New York

Frank D. Bean
The Urban Institute
Washington, D.C.

Vernon M. Briggs, Jr.
Cornell University
Ithaca, New York

John M. Goering
Commission for the Study of International Migration
and Cooperative Economic Development
Washington, D.C.

Elizabeth J. Harper
U.S. Department of State
Washington, D.C.

Charles B. Keely
Georgetown University
Washington, D.C.

Ellen Percy Kraly
Colgate University
Hamilton, New York

Demetrios G. Papademetriou
U.S. Department of Labor
Washington, D.C.

Alejandro Portes
The John Hopkins University
Baltimore, Maryland

Lisa S. Roney
U.S. Immigration and Naturalization Service
Washington, D.C.

Seton Stapleton
U.S. Department of State
Washington, D.C.

Michael S. Teitelbaum
Alfred P. Sloan Foundation
New York, New York

Robert E. Warren
U.S. Immigration and Naturalization Service
Washington, D.C.

Karen A. Woodrow
U.S. Bureau of the Census
Washington, D.C.

GAO

United States
General Accounting Office
Washington, D.C. 20548

Program Evaluation and
Methodology Division

May 1, 1989

The Honorable Edward M. Kennedy
Chairman, Subcommittee on Immigration
  and Refugee Affairs
Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

It's a pleasure to respond to your letter of March 15, 1989, requesting me to answer additional questions arising from my testimony at the Subcommittee's March 3 hearing.

Enclosed are responses, based on our assessments of S. 358 and S. 448, to the four questions posed. We will be submitting a report to you on S. 358 in the near future. More details about our assessment of S. 448 may be found in our report entitled Immigration: Projected Immigration Under S. 448 and Recent Trends in Legal Immigration. GAO/PEMD-89-12 (Washington, D.C.: U.S. General Accounting Office, 1989).

Thank you for your interest in our work on assessing the likely impacts of changing the legal immigration system. The kind of thoughtful attention you and your staff have given to our efforts is extremely important to all of us and is much appreciated. I hope these answers are responsive to your questions. If you would like to discuss them further, or require any additional information, please contact me on 275-1854 or Lois-ellin Datta, PEMD's Director of Program Evaluation in Human Services Areas, on 275-1370.

Sincerely,

Eleanor Chelimsky

Eleanor Chelimsky
Assistant Comptroller General

Enclosure

QUESTIONS FROM SENATOR EDWARD M. KENNEDY

QUESTION 1. IN YOUR STATEMENT, YOU MADE SOME PROJECTIONS REGARDING FIFTH PREFERENCE WAITING LISTS (FOR SIBLINGS OF CITIZENS) UNDER THE KENNEDY-SIMPSON BILL. BUT I DID NOT SEE SIMILAR PROJECTIONS UNDER SECOND PREFERENCE (SPOUSES AND CHILDREN OF RESIDENTS).

I RECOGNIZE THAT THERE ARE MANY VARIABLES THAT AFFECT FUTURE SECOND PREFERENCE BACKLOGS, AND YOU HAVE IDENTIFIED SOME IN YOUR STATEMENT.

-- BUT CAN YOU GIVE US A FLAVOR OF WHAT SECOND PREFERENCE BACKLOGS WILL BE UNDER OUR BILL AND UNDER CURRENT LAW? HOW LONG WILL APPLICANTS HAVE TO WAIT UNDER OUR BILL AND UNDER CURRENT LAW?

-- OUR BILL CONTAINS A CONGRESSIONAL REVIEW AFTER THREE YEARS. OVER THAT PERIOD, IS CURRENT LAW OR OUR BILL MORE GENEROUS TO SECOND PREFERENCE?

Projections of waiting times

To illustrate what could happen if admissions were reduced from about 70,000 to 20,000 annually, and all persons remained in line, we projected a waiting time of about 75 years for an applicant who was added to the 5th preference waiting list now. We were able to make this calculation because of special conditions that do not exist in other preferences. The current 5th preference waiting list is already substantial and waiting times for those now on that list can be estimated given knowledge of the number of 5th preference admissions authorized under S. 358. In contrast, the 2nd preference waiting list is currently small relative to the number of visas likely to be made available in the period 1990-99. Further, there are other unknowns and complexities with regard to 2nd preference demand, which I discuss in the next paragraph.

Second Preference Visas

As noted in my testimony (page 19), more 2nd preference visas would be made available initially under S. 358 than under current law. But it's also the case that the pool of 2nd preference applicants is likely to increase under S. 358, consisting of spouses and children of participants in the new selected immigrants program and spouses and children of the beneficiaries of the Immigration Reform and Control Act of 1986 legalization program. The linkage of the availability of family preference visas to the level of total family connected immigration (the sum of family preference and immediate relative immigration) is likely to increase pressure on 2nd preference waiting lists. Thus, the number of 2nd preference visas made available under S. 358 is likely to decline over time--reaching zero by 1998, we project--as the number of immediate relatives increases. Increases in the 440,000 annual limitation for family connected immigration under S. 358 would reduce the pressure on 2nd preference and other family preference immigration.

Results Expected: 1990-93 vs. 1994-1999

In the period before the initial congressional review of the family connected and independent immigrant limitations in 1993, S. 358 would make more 2nd preference visas available than would current law. We estimate 2nd preference visa availability at 528,768 under S. 358 and 450,200 under current law for the period 1990-93. However, for the period 1994-99, we project less than half as much 2nd preference visa availability as under current law: that is, 309,236 under S. 358 (if the 440,000 limitation were unchanged) and 674,200 under current law. The greater number of visas authorized under S. 358 is responsible for the findings in the 1990-93 period. The pressures discussed in the previous paragraph should subsequently reverse this pattern if the 440,000 limitation were not increased substantially in 1994.

QUESTION 2. YOUR REPORT ESTIMATED AN INCREASE OF 150,000 PETITIONS FOR IMMEDIATE RELATIVES FILED BY BENEFICIARIES OF THE LEGALIZATION PROGRAM. COULD YOU INFORM THE SUBCOMMITTEE, IN LAYMAN'S TERMS, HOW YOU ARRIVED AT THESE NUMBERS?

More than 3 million beneficiaries were granted temporary resident status under the Immigration Reform and Control Act of 1986. We estimated the number of immediate relatives that these beneficiaries of the legalization program would be likely to petition for. We developed our estimate by grouping the beneficiaries by country of origin and applying the historical average rates of naturalization and petitioning for each country to the groups of beneficiaries, country by country. If these beneficiaries were to petition for their immediate relatives at the same rates as have been typical from their countries, we would expect 300,000 petitions.

We made a conservative estimate of 150,000 rather than 300,000 immediate relative petitions, because we think the latter figure is unrealistically high for two reasons. First, we note that the 300,000 estimate is based on an assumption that all 3 million beneficiaries will still be in the United States in 1994-95 when they become eligible to become citizens. In fact, many are likely to emigrate during this initial period. Second, the historical averages we used in the estimates are likely to represent a more stable population than is the case for at least one major component of the legalization program. About one-third of the legalization program beneficiaries consist of special Agricultural Workers. These workers may be younger and more transient than the earlier groups on which the historical averages are based.

QUESTIONS FROM SENATOR PAUL SIMON

QUESTION 1. ON PAGE 19 OF YOUR WRITTEN TESTIMONY, YOU ESTIMATE THAT THE NUMBER OF SECOND PREFERENCE VISAS FOR THE FAMILIES OF PERMANENT RESIDENTS PROVIDED BY S. 358 WOULD "AT BEST ABOUT EQUAL THE NUMBER LIKELY TO BE MADE AVAILABLE UNDER CURRENT LAW IN THE LONG TERM." MY BILL, S. 448, RAISES THE NUMBER OF SECOND PREFERENCE VISAS TO 200,000 ANNUALLY AND ALLOWS THE INDEPENDENT IMMIGRANTS TO KEEP THEIR FAMILIES TOGETHER. WHICH SYSTEM, S. 448, S. 358 OR CURRENT LAW PROVIDES THE MOST VISAS TO SPOUSES AND CHILDREN OF PERMANENT RESIDENTS?

We think S. 448 would make available the largest number of 2nd preference visas--approximately 1,972,200 during 1990-99--compared with 1,124,000 under current law and 838,004 under S. 358. The S. 358 estimate could be raised to 1,141,835 (about the same as under current law), but only under an alternative projection requested by the Subcommittee which applies a 5 percent annual increase to the 440,000 limitation beginning in 1994. We note that such an increase would require the approval of the Congress by joint resolution.

QUESTION 2. YOU ESTIMATE THAT FAMILY PREFERENCE IMMIGRATION WOULD DROP TO ZERO IN THE NEXT TEN YEARS UNDER S. 358. ON PAGE 15 OF YOUR WRITTEN TESTIMONY, YOU ALSO CONCLUDE THAT THERE IS NO ASSURANCE THAT S. 358 WOULD INCREASE IMMIGRATION FROM LOW-DEMAND COUNTRIES. PLEASE ELABORATE ON THE BASIS FOR YOUR CONCLUSIONS AND WHETHER UNDER MY BILL WE WOULD REACH A DIFFERENT RESULT AS TO FAMILY PREFERENCE IMMIGRATION FROM LOW-DEMAND COUNTRIES.

Family preference immigration

Family preference immigration during 1990-99 would be about 3,240,000 under S. 448, 2,160,000 under current law, and 1,213,133 under S. 358 (assuming no increase in the 440,000 family connection limitation). The volume would be an estimated 1,635,071 under the alternative projection of S. 358 requested by the Subcommittee which applies a 5 percent annual increase to the 440,000 limitation beginning in 1994.

There are two reasons for the differences we estimate between S. 358 and S. 448. First, S. 448 would make 336,000 visas available for family preference immigration each year compared with 216,000 initially under S. 358. Second, S. 358 would reduce the number of family preference visas proportional to an increase in immediate relative immigration, but S. 448 has no such reduction.

Immigration from low-demand countries

We do predict that S. 358 would increase immigration from low-demand countries relative to the 8 high-demand countries we studied. While we expect that the numbers of immigrants would be reduced from both the high- and low-demand countries under S. 358, the loss would be greater for the high-demand countries. Thus I noted in my testimony that "Both of the projections of S. 358 reverse the pattern under current law in which the 8 high-demand countries have more family preference immigration than the 167 remaining countries" (page 15).

The statement on page 15 that you cited was intended to mean that we have little basis for knowing which low-demand countries will in fact increase their immigration under S. 358.* That outcome depends in part on factors endogenous to the countries themselves. It is possible that countries such as Ireland and Italy (which, prior to 1965, were major sources of immigrants) could show increased demand, but it is also possible that other current low-demand countries could be the source of increased numbers of immigrants.

As noted earlier, S. 448 would provide about 2 million more family preference visas over the 1990-99 period than S. 358 (assuming no increase in the 440,000 limitation). As stated in our letter report (GAO/PEMD-89-12, page 11), S. 448 would increase the estimated number of visas made available during 1990-99 to low-demand countries from 701,210 under S. 358 to 2,088,500. S. 448 would also slightly increase the number of visas for high-demand countries from 1,120,000 under current law to 1,151,000 during this same period.

*Our statement read: "There is no assurance that S. 358 would increase immigration from low-demand countries that were also earlier sources of immigrants . . ." (emphasis added).

Senator KENNEDY. Our final panel of witnesses represents a diverse set of views on immigration from organizations and communities that are deeply concerned about changes in our immigration laws. Because of limited time, we have invited representatives reflecting the views of a large number of diverse organizations. We also indicated that we welcome statements for the record from any organization or group who would like to make their views known to the subcommittee, and they will be printed in the appendix, as we did last year.

We have Cecilia Munoz from the National Council of La Raza, representing the views of Hispanic Americans; Melinda Yee of the Organization of Chinese Americans, representing the views of Asian Pacific American organizations; Frank Kittredge, president of the National Foreign Trade Council, representing the views of the Business Immigration Coalition; and Dan Stein, executive director of the Federation for American Immigration Reform.

I am going to have to absent myself for half an hour from 11:30 to 12—I want to apologize to the witnesses—to meet President Cerezo of Guatemala. He can only make it during that period of time.

So, I want to indicate that if I have to absent myself, I apologize for that, but I will be back at 12. Senator Simon will chair the hearing, and we will look forward to hearing the witnesses.

Quite frankly, what I would like to do, if we can, is hear from all the witnesses and then come back for the question and answer period. I think that is probably the best way to proceed.

So, we will start off with Cecilia.

PANEL CONSISTING OF CECILIA MUNOZ, SENIOR IMMIGRATION POLICY ANALYST, NATIONAL COUNCIL OF LA RAZA; MELINDA C. YEE, EXECUTIVE DIRECTOR, ORGANIZATION OF CHINESE AMERICANS, INC.; DAN STEIN, EXECUTIVE DIRECTOR, FEDERATION FOR AMERICAN IMMIGRATION REFORM; AND FRANK D. KITTREDGE, PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL, ON BEHALF OF THE BUSINESS IMMIGRATION COALITION, ACCOMPANIED BY MICHAEL COPELAND, PROCTER & GAMBLE CO.

STATEMENT OF CECILIA MUNOZ

Ms. MUNOZ. Thank you, Mr. Chairman, members of the subcommittee. If I can summarize my statement very briefly, my name is Cecilia Munoz. I am an immigration policy analyst for the National Council of La Raza.

We are a national umbrella organization for over 100 local affiliates, Hispanic community-based organizations. We have a long history of interest in and advocacy on immigration issues. Hispanic Americans represent both the first and many of the most recent immigrants to the United States.

We are very aware that any discussion of reforming the system to admit immigrants goes to our very identity as an immigrant nation. Our admissions system is an assessment of how we feel about our past and an expression of our commitment to the future. It is a measure of our highest values, our commitment to family, to diversity, and to pluralism.

As a community which has been greatly affected by immigration policy and which takes great pride in our contributions as immigrants and their descendants, our assessment of any proposed immigration reform takes these values as its core.

We have a number of principles for immigration reform which are in our formal statement. We believe they are consistent with the national interest. In my summary, I would like to focus on two of these issues.

First, immigration reform should maintain and promote family values as a principal priority in immigration policy. Second, reform should maintain generous, fair, and humane immigration policy which promotes equity and diversity.

Our analysis of the legislation before us will use these principles to address three areas of concern—family-preference immigration, the establishment of a cap or overall ceiling on immigration levels, and the development of a new, independent category of immigrants.

First, with regard to the second family-preference category, we feel that Senate bill 358 would unnecessarily and unwisely limit the entry of unmarried sons and daughters of permanent residents to those under the age of 26. This age limitation constitutes a reinterpretation of the definition of "family" which is inconsistent with the values of many groups which will be affected by the change, including Hispanics.

In addition, this restriction will have a disproportionate effect on high-demand countries like Mexico. Similarly, though Senate bill 358 would increase overall second preference admissions, the bill's imposition of reduced per-country limitations would effectively reduce the second preference entries from over-subscribed countries such as Mexico and the Philippines.

Senate bill 358 further alters the definition of "family" in its proposed changes to the fifth preference category under which adult U.S. citizens apply for their brothers and sisters. The bill proposes that the fifth preference be limited to those brothers and sisters of U.S. citizens who have never married, and it reduces available visas from 64,000 under current law to 22,000 by 1993.

Again, the implication that married siblings are somehow lesser family or less close is inconsistent with the strong family values in which the Hispanic and other communities take great pride.

We are further concerned that Senate bill 358 would, for the first time, impose an inflexible cap or numerical ceiling on levels of immigration. We see no evidence to support the contention that a limit is necessary at this time or that we are anywhere near the levels of immigration which would encourage the adoption of a limit.

If we are to approach immigration reform according to the above-stated principles of family and diversity, we must oppose the establishment of such a cap, no matter how generous.

We oppose it particularly because, by placing immediate family members of U.S. citizens under the cap, the bill would ultimately reduce immigration from other family-sponsored categories. I think the GAO's evidence has pointed this out very well.

Third, we don't oppose the concept of establishing a limited category of independent immigrants who would not otherwise have an opportunity to enter under the family and employer-sponsored categories.

In fact, we support the development of such a category because it promotes diversity and would allow methods of entry for the other 167 countries which the GAO pointed out. We believe this should be consistent with the principles of equity and diversity, and that it should not come at the expense of family-sponsored immigration.

We think that the inclusion of English language ability as a factor in the independent category in the point system undermines this principle of promoting equity and diversity in immigration policy.

Though, this factor would affect potentially a limited number of visas, it sets a dangerous and historic precedent which we find unacceptable. An experiment with an unprecedented new, independent category should not have even the appearance of favoring some parts of the world over others.

In light of these concerns, the National Council of La Raza proposes the following six policy recommendations.

First, we oppose the establishment of an overall ceiling on levels of immigration. Admission of the immediate family members of U.S. citizens should not be numerically restricted, nor should it be set off against other family categories.

Second, we oppose the effective reduction of per-country limits for family-related visas, as proposed in Senate bill 358. We believe that this reduction would severely restrict family-sponsored immigration, and the GAO's evidence bears this out. And we think that that undermines historic and valued principles——

Senator KENNEDY. What is the reduction in the numbers of per-country——

Ms. MUNOZ. The per-country limitations under this bill would effectively reduce family-sponsored immigration. Right now, the per-country limit is 20,000 per country. The legislation proposed by Senator Simon would raise that to 22,000.

The way the overall ceiling interacts with the per-country limits in Senate bill 358 ultimately reduces, for example, the ability of Mexicans to——

Senator KENNEDY. But how does Kennedy-Simpson reduce the current country limits?

Ms. MUNOZ. There is a complicated series of triggered per-country limitations that come into effect when a country uses all of the quota for immediate families of U.S. citizens. I am not a math major. I have tried explaining this in something less than half an hour and it is very difficult, but I would be happy to give you the analysis in writing.

Senator KENNEDY. Well, I wish you would check your facts, because it is not our understanding that it does. As a matter of fact, it increases it and freezes in higher annual quotas for Mexico.

Ms. MUNOZ. It does increase overall numbers. We believe that it decreases for over-subscribed countries the second preference admissions.

Senator SIMPSON. Rick is giving signals back there—Rick Schwartz. Yes, excuse me.

Ms. MUNOZ. To continue with our principles, we support, third, modest increases in levels of immigration, particularly the numerical limitations outlined in Senate bill 448.

Fourth, we oppose the imposition of any further restriction on what constitutes a family for immigration purposes. Again, we feel that is inconsistent with our values, and it is inconsistent with traditional priorities in immigration policy.

Fifth, we support the development of an independent category, provided that it promotes equity and diversity, and provided it doesn't come against family-sponsored immigration. We are, however, concerned that an increase in unsponsored immigration is an unprecedented step in immigration reform.

Immigration through the channel of family and employer sponsors has proved to be effective in helping newcomers adjust to life in the United States. We therefore recommend that nonsponsored immigration be initiated on a trial basis, as proposed in Senate bill 448.

In addition, we must oppose the inclusion of English language ability, as I mentioned earlier, as a factor in the point system.

Sixth, and finally, we believe very strongly that any immigration reform undertaken this year should take into account the difficult situation of many temporary residents who were legalized under the Immigration Reform and Control Act.

Many of these individuals enter the United States separately from their spouses and children. These families are undergoing great hardship because their undocumented family members cannot work and face the fear of deportation by the Immigration Service.

We believe it is in the national interest and fulfills the principles of legalization that these family members are fully accepted as full members of American society by granting them the ability to work and the ability to swiftly adjust to legal status.

In conclusion, Mr. Chairman, though we have some serious reservations about many aspects of the proposed legislation, we are confident that you share our commitment to promoting family, equity, and diversity in immigration reform.

We pledge to work with you toward a compromise which ensures that these values are preserved in our legal immigration system. And, again, we thank you for the opportunity to present these views.

[The prepared statement of Ms. Munoz, along with questions and answers, follows:]

TESTIMONY ON S. 358 and S. 448
LEGAL IMMIGRATION REFORM LEGISLATION

Presented by:

Cecilia Muñoz
Senior Immigration Policy Analyst

NATIONAL COUNCIL OF LA RAZA
810 First Street N.E.
Suite 300
Washington, D.C. 20002

Before:
Subcommittee on Immigration and Refugee Policy
Committee on the Judiciary
United States Senate

March 3, 1989

NATIONAL COUNCIL OF
LA RAZA

I. INTRODUCTION

Mr. Chairman and members of the Subcommittee, my name is Cecilia Muñoz, Senior Immigration Policy Analyst for the National Council of La Raza (NCLR). I come to NCLR from the implementation end of immigration reform; I am the former director of the Legalization Program for Catholic Charities of the Archdiocese of Chicago, and member of the steering committee of the Chicago Committee on Immigrant Protection.

Raul Yzaguirre, the president of NCLR, has asked me to thank you for the opportunity to express our views on the important subject of legal immigration and to extend his regrets for not being able to appear himself before the subcommittee this morning; he is out of town on pressing business.

The National Council of La Raza is a Washington D.C.-based national organization dedicated to improving life opportunities for Hispanics in the United States. NCLR serves as a national umbrella organization for over 100 local "affiliates" -- Hispanic community-based groups which provide employment, education, health, housing, immigration, and social services to about one million Hispanics annually. NCLR has a long history of interest in and advocacy on immigration issues; Hispanic Americans represent both the first and many of the most recent immigrants to the United States.

The fact that both legislative proposals before us today propose to increase the number of immigrants who are admitted to the United States annually represents, in our view, general agreement that increased immigration is in the national interest. Immigrants enrich the United States in countless ways, including introducing ethnic foods, clothing, music and art. In addition, researchers are almost unanimous in their assertion that immigrants help the economy. One economist has estimated that, by 1990, annual economic growth will be about two-thirds of one percent highter than it would have been without the increases in immigration just since 1965; in a multi-trillion dollar economy, two-thirds of one percent amounts to billions of dollars worth of goods and services attributable to post-1965 immigrants every year.

In addition to reflecting our appreciation of the contributions of immigrants, we are well aware that any discussion of immigration reform goes to our very identity as an immigrant nation. Our admissions system is an assessment of how we feel about our past as a nation and an expression of our commitment to the future. It is a measure of our highest values, our commitment to family, to diversity, to pluralism, and to opportunity. As a community which has been greatly affected by immigration policy, and which takes great pride in our contributions as immigrants and their descendants, our assessment of any proposed immigration reform takes these values as its core.

II. PRINCIPLES

Consistent with the national interest and the values which have long been part of the immigrant tradition, The National Council of La Raza supports the reform of our current immigration system according to four basic principles:

1. Reform should maintain and promote family values as the principal priority in immigration policy. Family-sponsored immigration, in addition to reflecting our highest national values, has traditionally fulfilled two important objectives in immigration policy, meeting labor force needs and facilitating the adjustment of newcomers. NCLR believes that

this source of immigration should be preserved and enhanced by facilitating the reunification of families, keeping family-sponsored immigration out from numerical limitations, and ensuring that immediate family members do not reduce admissions in other family categories.

2. Reform should maintain a generous, fair and humane immigration policy which promotes equity and diversity, consistent with the national interest. In our view this means modest increases in numerically limited preference categories combined with temporary backlog reduction measures;

3. Reform should provide for periodic review of immigration policy. Review procedures, however, should not include "automatic" adjustments in admissions standards. Changes in numerical limits should occur only by means of thorough Congressional review, discussion, and action.

4. Reform that addresses immigrant preference categories for which there are substantial backlogs must be based on input and involvement of those communities most likely to be directly affected. The fact that there are backlogs of qualified applicants under a particular immigrant category does not justify the elimination or narrowing of that category.

These prinicples, as a framework of our priorities for immigration reform, will provide the basis for our assessment of the provisions of S. 358 and S. 448.

III. PROPOSED IMMIGRATION REFORM LEGISLATION (S. 358, S. 448)

Our analysis of the proposed legislation will address three principal areas of concern: family-sponsored immigration, the establishment of a "cap" or overall ceiling on immigration levels, and the development of a new, "independent" category of immigrants.

A. Family-sponsored Immigration

In our view, several provisions of S. 358 would severely limit family-sponsored immigration to the United States, undermining a long standing tradition of making family unification a priority in immigration policy.

The bill would restrict the definition of what constitutes a "family" for immigration purposes in a way which offends the values of the Hispanic and other ethnic communities. In addition, analysis of S. 358 shows that actual numbers of family-sponsored immigrants would be reduced for "high demand" countries like Mexico, even in preference categories where the bill proposes to increase overall admissions. Finally, we feel strongly that any change in immigration policy this year should include a provision to assist the family members of the newly-legalized who did not benefit from the legalization program.

1. Second Preference:

S. 358 would unnecesarily and unwisely limit the entry of unmarried sons and daughters of permanent residents to those under the age of 26. This age limitation constitutes a reinterpretation of the definition of "family" which is inconsistent with the values of many groups which will be affected by the change, including Hispanics. In addition, this restriction will have a disproportionate affect on "high demand" countries like Mexico, since the child of a permanent resident might, for example, apply at age 16, and eventually be disqualified due to lengthy backlogs. Certainly such a child is no less a member of a family at age 26 than she or he was at 16.

Although S. 358 would increase overall second preference admissions from 70,200 under current law to 143,000, the bill's imposition of per-country limitations would effectively reduce second preference entries from "oversubscribed" countries such as Mexico and the Philipines. According to the testimony of the American Immigration Lawyers Association (AILA) before the House of Representatives Subcommittee on Immigration, Refugees, and International Law last year, the 7% per-country ceiling for "family connection" visas, interacting with other provisions for countries with high demand, would significantly reduce the number of second preference visas for Mexico and the Philipines. We have reviewed AILA's testimony, and we find it to be compelling.

This effective decrease in second preference admissions from countries like Mexico exacerbates our concern that this bill makes no provisions for adjustment of status for the family members of the over one million temporary residents who benefitted from the legalization program. The second stage of legalization is underway, and these immigrants, as they begin to ajust to permanent residence, will begin to apply for second preference visas for their family members. We believe that any modifications to the second preference category must take this special, temporary need into account in order to prevent lengthy backlogs and further hardship to these individuals.

2. Fifth Preference

S. 358 further alters the definition of "family" in its proposed changes to the fifth preference category, under which adult U.S. citizens apply for their brothers and sisters. The bill proposes that the fifth preference be limited to those brothers and sisters of U.S. citizens who have never married, and reduces available visas from 64,800 under current law to 22,000 by 1993. Again, the implication that married siblings are somehow "lesser" family members is inconsistent with the strong family values in which the Hispanic and other communities take great pride.

Proponents of this provision have pointed to the prospect of "chain migration" as a rationale for limiting the fifth preference. A January 1988, study by the General Accounting Office reports that there is little or no evidence to support such a prospect. Proponents have further argued that lengthy backlogs provide another strong reason for altering fifth preference eligibility. The National Council of La Raza does not agree with logic that a backlog constitutes a reason for limiting a preference category or for drastically reducing the numbers available to it.

In addition, many contend that the large backlogs in the second and fifth preferences are likely to be smaller than they seem. Because of 10 and 12 year waiting periods, it is not unusual for fifth preference petitioners to lose interest in coming to the United States, or to find other ways of entering. Though they may not take advantage of a visa when it becomes available, their petition remains "in line", and thus part of the backlog. If changes in a preference category must be proposed because of backlogs, at a minimum the actual size of the backlog must be assessed, and the groups most likely to be affected should be involved in the process of recommending changes.

B. The "Cap" or Numerical Ceiling on Immigration Levels

The National Council of La Raza is further concerned that S. 358 would, for the first time, impose an inflexible "cap" or numerical ceiling on levels of immigration. If we are to approach immigration reform according to the above-stated principles of family, diversity, and opportunity, we must oppose the establishment of such a cap, no matter how generous. We are unaware of any evidence that supports the need for a rigid ceiling, and there are many sound reasons to oppose such a ceiling. First, we believe that some proponents of a rigid limit on admissions intend to seek reductions in legal immigration, which would be facilitated by the existence of a cap. Second, the cap is accompanied by a provision which provides for mandatory review of immigration levels, and for an automatic adjustment to the cap if the President recommends an increase or decrease of 5 percent or less. NCLR strongly believes that no change in immigration levels should occur without thorough Congressional review, discussion, and action. Third, by placing immediate family members of U.S. citizens under the cap, the bill would ultimately reduce immigration from other family sponsored categories.

This third element, the "offset", provides that the number of exempt-immediate relatives admitted in any one year is to be offset against 440,000 "family-connection" visas under the preference system for the following year. In other words, for "high demand" countries like Mexico and the Philipines, the number of immediate relatives admitted each year would cut into other family categories. The National Council of La Raza believes strongly that visas for family members of U.S. citizens should not be set off against other family sponsored categories. The fact that this "offset" comes at the expense of family-sponsored immigration represents a clear departure from a long tradition of valuing the family as a primary vehicle for immigration into the United States, which we believe is both unwise and unwarranted.

In addition to the overall cap on immigration levels, S. 358 would lower per-country ceilings, further undermining family sponsored immigration. To illustrate this point, we turn again to the testimony of the American Immigration Lawyers Assocation before the House Immigration Subcommittee last year. AILA's study of the interaction between family preference petitions, the overall "cap", and the per-country limitations is quite useful in illustrating the overall effect that the proposed legislation would have on family-sponsored immigration from "high demand" countries like Mexico.

According to AILA's testimony, if S. 358 had been enacted in 1985, family preference immigration in all numerically-limited categories (ie: all immediate relatives except for the family members of U.S. citizens) would have been limited to 7,578 for Mexico in FY 1986. In reality, 17,164 Mexicans entered the country under these categories in 1986, a number well within the overall, 20,000 per-country limit established by current law. This example illustrates the vast extent to which the cap and per-country limitations in S. 358 would unnecessarily curtail family-sponsored immigration. In fact, the cap is inconsistent with several of our fundamental principles for immigration reform: it is likely to reduce overall levels of legal immigration, it discourages family reunification, and it provides for new immigration opportunities only by adversely affecting existing source countries.

C. The Independent Category

The National Council of La Raza does not oppose the concept of estabishing a limited category of independent immigrants who would not otherwise have an opportunity to enter under the family and employer sponsored categories. We support the development of such a category, consistent with our basic principles for immigration reform, provided it does not come at the expense of family sponsored immigration and provided it promotes equity and diversity in immigrant admissions.

Our analysis of the independent category in S. 358 indicates that it falls short of achieving our fundmental goals for immigration reform in several respects. First, by excluding unskilled laborers from what is now the sixth preference category, it places a clear emphasis on skilled immigrants. If we are to have an independent selection category, it makes sense that the immigrants who enter through it fit into the sectors of the economy where immigrants have traditionally thrived and prospered, and where the evidence suggests that there is a continued need for their services. This seems to us to argue for inclusion of unskilled labor, consistent with current law, in the independent category.

Second, the inclusion of English as a factor in the independent category undermines the principle of promoting equity and diversity in immigration policy. Though this factor will affect a potentially modest number of visas, it sets a dangerous and historic precedent which we find unacceptable. An experiment with an unprecedented new independent category should not have even the appearance of favoring some parts of the world over others.

Third, NCLR must oppose any independent category which comes at the expense of family-sponsored immigration. Nearly 2/3 of the increase in admissions proposed in S. 358 is alloted to non-sponsored immigration, which, though set at 55,000, could eventually exceed 75,000 admissions each year. The addition of so many visas to non-sponsored immigration while imposing new restrictions on family sponsored categories is a dangerous step which we believe undermines both traditional priorities in immigration policy and the national interest.

IV. POLICY RECOMMENDATIONS

The National Council of La Raza supports reform of the nation's legal immigration system, consistent with the principles identified above. With regard to the specific legislation before us, we propose the following recommendations:

1. Overall Ceiling on Admissions:

The National Council of La Raza opposes the establishment of an overall ceiling on levels of immigration. Admission of the immediate family members of United States citizens should not be numerically restricted, nor should it be set off against other family categories. To impose these restrictions would be inconsistent with traditional immigration priorities and with the national interest in promoting humane and equitable admissions standards.

In addition, NCLR supports the proposal presented in the other body by Representative Howard Berman, which would essentially remove the distinction between U.S. citizens and permanent residents for immigration purposes. If family unification is to remain a consistent theme in immigration policy, it seems to us that the reunification of the families of permanent residents as well as that of U.S. citizens serves the national interest. We believe that the privileges of citizenship, the right to vote and to participate fully in the political process of this nation, speak for themselves as an incentive to naturalize. The ability to reunite a family should not be a factor in the intensely personal decision to assume the privileges and responsibilities of U.S. citizenship. We therefore favor removing the current second preference category from under numerical restrictions.

2. Per-Country Limitations:

The National Council of La Raza opposes the effective reduction in per-country limits for family related visas as proposed in S. 358. We believe that this reduction would severely restrict family-sponsored immigration, and would thus undermine historic and valued principles of immigration policy. We recommend a small increase in overall per-country limitations to 22,000 per country annually as proposed by Senator Simon.

3. Numerically Restricted Categories:

Aside from the numerically exempt categories outlined above, NCLR recommends that levels of immigration be increased according to the levels outlined in S. 448 for the numerically restricted categories: 336,000 visas for family visas; 84,000 for employment based immigration, and 66,000 for an independent category, for a total of 485,000 numerically limited visas.

4. The Definition of "Family" for Immigration Purposes:

The National Council of La Raza opposes the imposition of any further restriction on what constitues a "family" for immigration purposes. We believe that family unification is in the national interest because it is consistent with our highest national values and because it provides a natural channel for the adjustment of new immigrants. Therefore, we must object to the imposition of age limits for the second preference, and the restriction of fifth preference to never married brothers and sisters of U.S. citizens. Further, we oppose the reduction of the overall numbers for fifth preference, which would be reduced from 64,800 under current law to 22,000 by 1993.

5. The Independent Category:

The National Council of La Raza is not opposed to the development of an independent category provided it is consistent with the fundamental principles of promoting equity and diversity, and of maintaining a labor force which meets our nation's needs. We are, however, concerned that an increase in unsponsored immigration is an unprecedented step in immigration reform. Immigration through the channel of family and employer sponsors has proved to be effective in helping newcomers adjust to life in the United States. We must therefore recommend that non-sponsored immigration be intitiated on a trial basis, as presented in S. 448, and that it under no circumstances come at the expense of family sponsored admissions.

In addition, NCLR opposes the inclusion of English language ability as a factor in the point system proposed in S. 358. This undermines the basic principle of promoting equity and diversity which must be a part of the establishment of any "new channel" for immigrant admissions. Further, we support the retention of unskilled workers in the sixth preference as under current law, and as proposed by the Berman-Simon legislation.

6. Family Unification for Newly-Legalized Persons:

The National Council of La Raza believes strongly that any immigration reform undertaken this year should take into account the difficult situation of many temporary residents who were legalized under the Immigration Reform and Control Act of 1986. Many of these individuals entered the United States separately from their spouses and children, which in many cases made some legalization-eligible while their immediate families were not. Though having one temporary resident in the family is a great benefit to these individuals, they are undergoing great hardship because their undocumented immediate families cannot work, and are subject to deportation by the Immigration and Naturalization Service.

Clearly it is in the national interest to see to it that these families are promptly accepted as full members of American society by making provisions for their swift adjustment to legal status. We are concerned that S. 358 does not address this pressing concern. The National Council of La Raza supports the provisions of the Berman-Simon legislation, which provides for protection against deportation and work authorization for these family members as they wait their turn to adjust their status. By combining this with temporary numerical additions to the second preference, these proposals address the need to have an orderly, equitable adjustment process which is fair to both the newly legalized and other second preference applicants, and alleviate the great hardship which many families are suffering because of fear of deportation and lack of work authorization.

V. CONCLUSION

Mr. Chairman, though we have serious reservations about many aspects of the proposed legislation, we are confident that you share our commitment to promoting family, equity, and diversity in immigration reform legislation. We pledge to work with you towards a compromise which ensures that these values are preserved in our legal immigration system. Again, thank you for the opportunity to present our views.

NCLR
NATIONAL COUNCIL OF LA RAZA
Raul Yzaguirre, President

National Office
810 First Street, N.E.
Suite 300
Washington, D.C. 20002
(202) 289-1380

March 31, 1989

The Honorable Edward M. Kennedy
Subcommittee on Immigration and Refugee Affairs
Committee on the Judiciary
United States Senate
Washington, D.C. 20510-6275

Dear Senator Kennedy:

I have received the questions from the Subcommittee in connection with the hearing on immigration reform on March 3. Enclosed, please find our response for the record.

Again, I thank you for the opportunity to provide our views on the important subject of legal immigration reform.

Sincerely,

Cecilia Muñoz

Cecilia Muñoz
Senior Immigration Policy Analyst

cc: Senator Paul Simon

RESPONSE TO QUESTIONS ON IMMIGRATION REFORM
CECILIA MUÑOZ
NATIONAL COUNCIL OF LA RAZA

FROM SENATOR EDWARD M. KENNEDY:

1) During your appearance before the subcommittee, you and I discussed your argument that S. 358 would reduce current per country limits. It is my understanding that S. 358 actually increases per country ceilings from the current 20,000 per country for immigration under the preferences to the "7% solution" proposed under my bill -- under which per country ceilings would be about 23,000. Furthermore, S. 358 actually freezes the ceiling for countries such as Mexico, such that the level would be higher than 7%.

Admittedly, the formula is complex, but could you explain your reading that my bill would result in a decrease in per country ceilings?

RESPONSE:

While S. 358, on the surface, would raise per country ceilings from the current 20,000 to 23,800, the "7% solution" as you call it, would actually reduce per country family admissions from high-demand countries like Mexico.

Under S. 358, the per country limitation for family connection immigrants is 7% of the family connection total (400,000 minus immediate relatives, estimated at 220,000). According to this formula (220,000 x .07) a maximum of 15,400 family connection immigrants could enter from Mexico in any given year. Under current law, 18,000 such immigrants enter from Mexico per year -- hence the reduction we discussed at the hearing.

It is true that S. 358 allows for 8,400 independent visas from Mexico (8,400 added to the 15,400 family connection visas = the 23,800 total per country limitation). However, NCLR believes that Mexico is unlikely to be able to use 8,400 independent visas under the system devised in S. 358, and will therefore not reach its per country allotment. In other words, in theory, the per country ceiling goes up, but for countries like Mexico it will go down in practice.

Even if Mexico were to be able to use all of the independent visas allotted to under the formula in your bill, it is little comfort to the thousands of U.S. citizens and permanent residents waiting patiently to reunite with their family members to be told that, though fewer family visas are available, more Mexicans will be able to enter overall.

Because of the de facto reduction in per country ceilings for family connection immigrants, the National Council of La Raza recommends that the formula in S. 358 be adjusted to allow high-demand countries to use the full 23,800 total per country limitation for family-sponsored immigration.

2) Two of the four family preference categories under current law are severely backlogged and are getting worse. They are the second preference (spouses and children of residents) and the fifth preference (siblings of citizens).

It would take 1.7 million or more extra visas just to clear the fifth preference backlogs -- and this wouldn't even include the increases over current law which would be needed just to keep up with continuing demand.

Given these pressures, we have to make choices. There will never be enough visas to "fix" every category.

So what is wrong with giving higher priority to fixing the preference for spouses and children over the one for siblings?

RESPONSE

The National Council of La Raza recognizes that we have two severely backlogged categories under the current preference system. While there may never be enough visas to eliminate the backlog entirely, as I mentioned in our testimony, we do not believe that a significant backlog justifies limiting eligibility for a preference category or reducing the numbers allotted to it. NCLR feels strongly, therefore, that the current definitions of both the second and fifth preferences should be preserved, that the numerical limits for both categories should be increased, and that temporary visas should be allotted to both categories to reduce backlogs.

Though we accept that the backlogs are an issue -- one which affects Hispanics and Asians above all other groups -- we do not agree that this is the point at which we have to make choices. There is no evidence to suggest that levels of immigration, particularly family-sponsored immigration, need to be limited. In fact, the Select Commission articulated quite strongly that family-sponsored immigration should be increased, and backlog reduction measures adopted for both the second and fifth preference categories. We support this recommendation, and it continues to be our recommendation the Subcommittee.

FROM SENATOR PAUL SIMON

1. Following up on your exchange with Senator Kennedy during your oral presentation to the Subcommittee, I would like for you to elaborate on and explain your concerns about a reduction in family-based visas in subsequent years for countries which reach their per country ceiling.

RESPONSE

One of our principal concerns about S. 358 is the effect that the "offset" provision would have on family-sponsored immigration. Under the bill, if the 440,000 family connection total were exceeded, the number of family preference visas for the following year would be reduced. In other words, under these circumstances, the immediate relatives of U.S. citizens "cut into" family preference immigration.

The testimony provided by Eleanor Chelimsky of the General Accounting

Office projects that, by 1998, family preference immigration could drop to zero as a result of this "offset." This drastic reduction in family immigration undermines a long tradition of valuing family as the principal source of immigration which, as I pointed out in our testimony, is a humane priority in immigration policy which benefits the nation as a whole.

The introduction of an "offset" of immediate relatives against other family-sponsored immigrants will prevent reunification of individual families, and damage a long national commitment to family values. In addition, such drastic restrictions on family preference immigration will only provide an impetus to illegal immigration as families find whatever means they can to stay together.

Because of the radical reduction in family-sponsored immigration which would occur as a result of the offset, the National Council of La Raza supports S. 448, which does not include a cap or offset provision, and which increases levels of family-sponsored immigration consistent with traditional priorities and the national interest.

2. On page 8 of your written testimony, you state that if S. 358 had been enacted in 1985, immigration from Mexico would have been reduced by 10,000 for Fiscal Year 1986. What impact would such a reduction have on the waiting period for spouses and children from Mexico?

RESPONSE

The reduction in immigration from Mexico I described on page 8 of my testimony is an example of the effect that the "offset" provision would have on levels of family-sponsored immigration from high-demand countries.

As your question implies, the more access to family connection categories is reduced, the more the waiting period increases. The pressure on the waiting lists is likely to be greatest on the second and fifth preferences, which are the categories with the biggest backlogs under the current system. Similarly, the waiting lists for the countries which have the highest demand are likely to increase more than those for other countries.

Though it is impossible to say precisely how much the waiting periods are likely to grow, it is clear that the effect of S. 358 would be to increase waiting periods, especially for countries like Mexico and the Philippines. The fact that, under S. 358, selected immigrants cannot automatically bring in family members, but must apply under the preference system, further increases the pressure on the second preference. The testimony of the GAO points out that this will have an immediate effect on the second preference waiting lists by dramatically increasing demand. Similarly, the GAO testimony points out that the waiting list for the fifth preference could grow to 75 years under the Kennedy/Simpson bill.

As I indicated in my testimony, the National Council of La Raza recommends that any reform of the legal immigration system include backlog reduction measures while keeping the current family preference system intact.

3. You were actively involved in the legalization program when you were with Catholic Charities in Chicago. I was troubled by the lack of a nationwide family unity policy for those who were legalized. What is the situation right now for the families and how do you recommend Congress address this issue?

RESPONSE

As I mentioned in my testimony, the National Council of La Raza is greatly concerned about the hardship being experienced by families who entered the United States at different times, and are thus divided by the fact that some members were able to legalize while others were not. Though exact data are not available from the INS, we believe that a large number of families are enduring unnecessary hardship; they face the threat of separation by deportation, and must manage to survive economically though some family members are not authorized to work.

The legalization program was intended to recognize the contributions of longtime undocumented residents of the United States, and to give them the opportunity to "come out of the shadows", to work and participate without fear. This promise has not been fulfilled for those families who must still live in fear of deportation and without the ability to work. No purpose is served by allowing them to live under these conditions, and in fact, the fundamental goal of legalization is undermined.

The so-called "family fairness" program enacted by the Immigration and Naturalization Service in November, 1987, does not even begin to address this situation, and in fact, actually harms some of the families who seek to benefit from it. The program is implemented on a case by case basis, without written guidelines or confidentiality protections. As I know you are aware, in Chicago, individuals who have petitioned under this program in good faith have been issued orders to leave the country within 30 days.

Because of this serious situation, the National Council of La Raza believes that a legislative remedy is urgently needed, and thus supports the provision of S. 448 which would grant these individuals protection against deportation and work authorization. Because these benefits do not constitute a grant of legal status, this proposal does not put the family members of newly-legalized persons "in line" ahead of anyone else. Rather, S. 448 recognizes that these families should be, at a minimum, allowed to live and support themselves without fear of deportation or exploitation.

Senator KENNEDY. Fine; thank you very much.
Melinda Yee.

STATEMENT OF MELINDA C. YEE

Ms. YEE. Chairman Kennedy, Senator Simpson, and Senator Simon, I am pleased to have the opportunity today to testify on behalf of the Organization of Chinese Americans concerning legal immigration reform bills being considered by this subcommittee.

Both Senate bill 358, introduced by Senator Kennedy and Senator Simpson, and Senate bill 448, introduced by Senator Simon, address issues of critical concern to the Asian Pacific American community. OCA commends the three Senators on the subcommittee for their leadership and comprehensive initiatives on legal immigration reform.

The following comments, embracing family reunification principles, have been endorsed by the Asian Pacific American Legal Center and the Pacific Leadership Council of Los Angeles and Chinese for Affirmative Action in San Francisco.

The Asian Pacific American community is extremely concerned with the impact of the legal immigration reform proposals before us. Historically, both Asian immigrants and Americans of Asian ancestry have been victims of discriminatory practices by the U.S. Government.

In 1882, the Chinese Exclusion Act was the first U.S. law to restrict immigration on the basis of race. For over 80 years, Asians were subject to immigration exclusion laws that prevented them from entering America. Only since 1965, with the passage of the Immigration and Nationality Act amendment, were discriminatory national origin quotas abolished.

Both Senate bill 358 and Senate bill 448 are comprehensive bills designed to improve U.S. immigration law. Of utmost importance to the Asian Pacific American community are fair and equitable provisions and reasonable increases in immigration, specifically in the areas of family-based preference categories, independent immigrant categories, overall immigrant admissions and, finally, annual per-country limitations.

No changes should be made to narrow or eliminate the current eligibility definitions. Acceptable immigration policy will not pit one ethnic group against another, nor will it pit one preference category against another.

Upon analysis of Senate bill 358 and Senate bill 448 with respect to the potential impact on the Asian Pacific American community, OCA favors the provisions contained in Senate bill 448 over the provisions contained in Senate bill 358.

In 1981, the Select Commission on Immigration and Refugee Policy voted in favor of preserving eligibility for all brothers and sisters regardless of their marital status under the fifth preference category. The fifth preference is the most highly utilized by Asian immigrants. The Philippines has almost 225,000 applications currently pending, and in 1986 over 15 percent of all fifth preference beneficiaries were from China or Taiwan.

Under Senate bill 358, visas in this category would be reduced by approximately 67 percent, doubling the current 10- to 15-year wait, and the qualifications for fifth preference visas would be restricted to never-married brothers and sisters of U.S. citizens.

Under Senate bill 448, 25 percent additional visas will be made available to brothers and sisters regardless of their marital status. Furthermore, detractors of the fifth preference have asked whether those who have petitioned for fifth preference and have already waited over a decade still have the desire to come to America or, to the extreme, are still alive.

OCA believes that measures should be taken to address these questions before numbers are subtracted from this category. For instance, some kind of study should be done or something to clear this question up before making assumptions.

Although no study has been done, it is clear that it is unfair to decrease or to abolish the fifth preference category when under current law 64,800 individuals are using these visas every year.

Those individuals who have properly followed existing procedure under the fifth preference category have endured the longest wait to legally enter this country and should be fairly treated by U.S. legal immigration reform policy.

Asian immigrants also significantly utilize the second preference category, which includes spouses and unmarried sons and daughters of permanent resident aliens. The Philippines has almost 78,000 applications pending in the second preference.

In fiscal year 1986, approximately 8 percent of all second preference admissions were from China or Taiwan. Senate bill 358 specifies that the son or daughter must be under 26 years old. Senate bill 448 does not place an age limitation on the unmarried sons and daughters.

Permanent resident aliens of Asian descent have come to America to seek economic and social opportunities not available to them in their home countries. Many of these first-generation immigrants have been unable to see and live with their children who are still in Asia.

U.S. immigration policy has recognized that the preservation of the relationship between husband and wife or parent and child is of utmost importance to the well-being of the individual. Age should not be a factor in the determination of eligibility under this preference category.

The independent category of immigration could potentially be utilized by Asian immigrants as investors, highly educated individuals, or hard workers. Many overseas Asian investors qualify under this category. These investors will bring benefit to the American economy by utilizing foreign capital in this country and creating employment opportunities for U.S. citizens.

Of major concern to the Asian Pacific American community with respect to the independent category is the point system. The independent category was established to give non-sponsored immigrants the opportunity to make contributions to this country.

OCA believes that a criteria based on education and skills and not English-speaking ability should be established to judge an applicant's potential for productivity in America. Education should be the key factor in assessing an individual's potential for success.

When obtaining a college education in their home countries, many individuals are able to acquire English-speaking skills or are likely to readily develop these skills once they arrive in America.

Historically, immigrants from around the world have learned English only after they have arrived in this country. In fact, thousands of Asian immigrants are now waiting in line for English proficiency programs.

The independent category should allow immigrants to develop English-speaking skills and become productive members of American society once they arrive in this country.

The number of immediate relatives of U.S. citizens admitted to this country should not be subject to an overall numerical cap. Similarly, the immediate-relative and family-sponsored categories should not be set off against each other. A cap is unnecessary and could actually reduce the number of individuals allowed to come under the family preference categories.

Per-country limitations should be increased by at least 25 percent. If no per-country increase is made, then backlogs will continue to escalate beyond the already unreasonable 10- to 15-year waiting period.

In fiscal year 1987, China, India, Korea, and the Philippines all reached their per-country limits and backlog waits were extended even longer.

The Organization of Chinese Americans again commends Chairman Kennedy, Senator Simpson, and Senator Simon for initiating the development of legal immigration reform policy proposals.

Some issues contained in Senate bill 358 and Senate bill 448 are very acceptable to our community, such as the naturalization of Filipino war veterans and the need for future comprehensive studies in determining whether legal immigration reform policies have been successful.

However, other issues as previously outlined remain controversial and require negotiation between the communities involved and policy decisionmakers. In structuring this policy, we need to remember that immigration is healthy, is a vital element to the success of this country, and should be as diverse and fair as possible.

We need to continue this dialog and convene further hearings on legal immigration reform.

The provisions contained in Senate bill 448 are much more acceptable to the Asian Pacific American community than those provisions contained in Senate bill 358. OCA believes, however, that Senate bill 358 can potentially address the concerns of the community and looks forward to working with Chairman Kennedy, Senator Simpson, Senator Simon, and other interested Senators to craft a bill that is sensitive to the needs of Asian immigrants.

Thank you for this opportunity to testify on legal immigration reform proposals before the U.S. Congress, an issue of ongoing critical importance to Asian Pacific Americans.

[The prepared statement of Ms. Yee, along with questions and answers, follows:]

ORGANIZATION OF CHINESE AMERICANS®, INC.
美華協會
EMBRACING THE HOPES AND ASPIRATIONS OF CHINESE IN THE UNITED STATES
2025 EYE STREET, N.W. • SUITE 926 • WASHINGTON, D.C. 20006 • (202) 223-5500

NATIONAL PRESIDENT
Frank Liu
SECRETARY
Weiming Lu
TREASURER
Keith Wang
VICE PRESIDENTS
ADMINISTRATION
Margaret Chao
CHAPTER DEVELOPMENT
Irene Wu
COMMUNICATIONS
William Der-Bing
ECONOMIC AFFAIRS
David Der
EDUCATION/CULTURE
Joseph Lee
FINANCE
Samuel Mok
MEMBERSHIP SERVICES
D. Pat Peng
PUBLIC AFFAIRS
Robert Wu
GENERAL COUNSEL
William Hou
EXECUTIVE DIRECTOR
Melinda Yee
PAST PRESIDENT
James Tso
CHAPTERS
Baltimore, Maryland
Boulder, Colorado
Central Virginia
Cerritos, California
Chicago, Illinois
Dallas, Texas
Delaware
Denver, Colorado
Detroit, Michigan
East Tennessee
East Virginia
East Bay, California
El Paso, Texas
Fairfield County, Connecticut
Georgia
Hawaii
Houston, Texas
Kentuckiana
Lehigh Valley, Pennsylvania
Long Island, New York
Los Angeles, California
Madison, Wisconsin
Miami, Florida
Minnesota
North East Ohio
New England
New Haven, Connecticut
New Jersey
New York, New York
Northern Virginia
Orlando, Florida
Pittsburgh, Pennsylvania
Research Triangle Area, North Carolina
South Alameda County, California
San Francisco Bay, California
San Mateo County, California
St. Louis, Missouri
Washington, D.C.
Westchester, New York
Wisconsin

TESTIMONY OF
THE ORGANIZATION OF CHINESE AMERICANS
BEFORE THE UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS
3 MARCH 1989

Introduction

The Organization of Chinese Americans (OCA) welcomes this opportunity to testify before this Subcommittee today on the consideration of current legal immigration reform legislative proposals being considered by the United States Congress. OCA is a national, non-profit, non-partisan network of concerned Chinese Americans. Since its formation in 1973, OCA has been dedicated to promoting the active participation of Chinese Americans in civic affairs at all levels and securing justice, equal treatment and equal opportunities for Chinese Americans. With 45 chapters and over 8,000 members nationwide, OCA is the only national Chinese American civic organization with headquarters in Washington, D.C. Celebrating its sixteenth anniversary this year, OCA's membership includes local, state, and federal-elected officials. While OCA's focus is on Chinese Americans, OCA's agenda includes many policy issues, such as immigration, that impact the Asian Pacific American community as a whole.

Historically, both Asian immigrants and Americans of Asian ancestry have been victims of discriminatory practices by the U.S. government. In 1882, the Chinese Exclusion Act was the first United States law to restrict immigration on the basis of race. For over eighty years, Asians were subject to immigration exclusion laws that prevented them from entering America. Many Asians who entered America were denied their civil rights. The most blatant example occurred in 1942, when the United States government incarcerated approximately 120,000 Japanese Americans during World War II. The Japanese Redress issue was finally addressed by the U.S. Congress last year, forty-six years after these atrocities occurred. Only since 1965, with the passage of the Immigration and Nationality Act Amendment, were discriminatory national origin quotas abolished. In short, Asian immigrants have had a difficult time in gaining access to and acceptance in America.

Today, Asian Pacific Americans comprise the fastest growing minority group in the country. Currently, more than 6.5 million Asian Pacific Americans live in America, with that number projected to reach 10 million by 1995. In recent years, individuals from Asian and Latino countries have comprised about 80% of legal immigration to this country. After assimilating to American society, many Asian immigrants have contributed to skilled and unskilled labor pools, including technical, small business, as well as various white-collar and blue-collar professions.

CURRENT LEGISLATIVE PROPOSALS

The Asian Pacific American community will be greatly impacted by current legislative proposals addressing legal immigration reform. Of upmost importance to the Asian Pacific American community are fair and equitable provisions, specifically in the areas of overall immigrant admissions, annual per-country limitations, family-based preference categories, employment-based immigrant categories and, finally, independent immigrant categories. No changes should be made to narrow or eliminate the current eligibility definitions. Both S. 358, introduced by Senator Kennedy and Senator Simpson, and S. 448, introduced by Senator Simon, address these crucial issues. Upon analysis of these bills and the potential impact on the Asian Pacific American community, OCA favors the provisions contained in S. 448 over the provisions contained in S. 358 for the reasons outlined in the following discussion.

Overall Cap on Legal Immigrants

The number of immediate relatives of U.S. citizens admitted to this country should not be subject to a numerical cap. Similarly, the immediate relative and family-sponsored categories should not be set off against each other. Under S. 358, OCA supports the increase of the overall level of immigration, though rejects an overall cap of 590,000 for the first three years.
S. 448 does not place a cap on the overall level of immigration for immediate releatives. This cap is unnecessary and could

actually reduce the number of individuals allowed to come under the family preference categories.

Per-Country Ceilings

Per-country limitations should be increased in new legal immigration reform proposals. S. 358 does not increase the per-country ceilings. S. 448 increases current per-country ceilings of 20,000 (and 5,000 in Hong Kong) by 10 percent. OCA believes that it is necessary for a per-country increase of at least 25 percent for additional visas allocated to those countries with severe backlog problems. If no per-country increase is made, then backlogs will continue to escalate beyond the already unreasonable 10-15 year waiting period. Asian immigrants will be force to endure even longer separations from their loved ones. In essence, the 100,000 additional visas under S. 358 will not be utilized by Asian countries unless the per-country increase is also allocated. In fiscal year 1987, China, India, Korea, and the Philippines all reached their per-country limits and backlog waits were extended even longer.

Family-Based Preference Categories

Fifth Preference

In 1981, the Select Commission on Immigration and Refugee Policy voted in favor of preserving eligibility for all brothers and sisters, regardless of their marital status, under the fifth preference category. Under present law, brothers and sisters of

U.S. citizens must wait for at least 10-15 years before being granted visas. The fifth preference is the most highly-utilized by Asian immigrants. Currently, the Philippines has almost 225,000 applications pending in the fifth preference category. In 1986, over 15 percent of all fifth preference beneficiaries were from China or Taiwan. Under S. 358, visas in this category would be reduced by approximately 67 percent, doubling the current 10-15 year wait, and the qualifications for fifth preference visas would be restricted to never married brothers and sisters of U.S. citizens. Under S. 448, 25 percent additional visas will be made available to brothers and sisters, regardless of their marital status. With respect to the fifth preference category, OCA strongly favors the provisions contained in S. 448 over the provisions contained in S. 358.

The concept of a nuclear family, including brothers and sisters in Asian culture is held at highest esteem. As more families are united, the more productive these individuals can become in society. Brothers and sisters in America and China have suffered greatly from being separated from each other and with little hope of being united. With the already substantial backlog, it is unrealistic to expect individuals to forego marriage and wait for over ten years, until they are granted visas to come to this country. It would be anathema to Chinese and Asian people--indeed, virtually all nationalities--to treat married brothers and sisters differently from unmarried brothers and sisters.

Furthermore, detractors of the fifth preference have asked whether those who have petitioned for fifth preference and have already waited over a decade, still have the desire to come to America or, to the extreme, are still alive. OCA believes that measures should be taken to address these questions before numbers are subtracted from this category. Although, no study has been done, it is clear that it is unfair to decrease or to abolish the fifth preference category when, under current law, 64,800 individuals are using these visas every year. Those individuals who have properly followed existing procedure under the fifth preference category have endured the longest wait to legally enter this country, and should be fairly treated by U.S. legal immigration reform policy.

Second Preference

Asian immigrants also significantly utilize the second preference category, which includes spouses and unmarried sons and daughters of permanent resident aliens. The Philippines has almost 78,000 applications pending in the second preference category. In fiscal year 1986, approximately 8 percent of all second preference admissions were from China or Taiwan. Although S. 358 increases the number of visas in this category, it also specifies that the son or daughter must be under 26 years old. OCA believes that unmarried children, regardless of their age, should be treated equally. S. 448 also increases the number of visas, but does not place an age limitation on the unmarried sons and daughters. In addition, S. 448 reduces the wait from five years to three years for permanent resident aliens to gain citizenship, which allows for a more expeditous reunion of immediate family relatives. With respect to the second preference category, OCA strongly favors the provisions contained in S. 448 over the provisions contained in S. 358.

Permanent resident aliens of Asian descent have come to America to seek economic and social opportunities not available to them in their home countries. Many of these first generation immigrants have been unable to see and live with their children who are still in Asia. U.S. immigration policy has recognized that the preservation of the relationship between husband and wife or parent and child is of utmost importance to the well-being of the individual. Age should not be a factor in the determination of eligibility under this preference category.

Employment-Based Immigration

Asian immigrants have also utilized the third and sixth preference categories which are both based on employer sponsorship. In fiscal year 1986, about 30 percent of all third and sixth preference admissions were from China or Taiwan. Both of these employment-based categories currently lack available visas and need to be increased.

Both S. 358 and S. 448 increase the number of visas available under employer-based preference categories. However, S. 358 eliminates eligibility for jobs that require less than two years' training or experience under the sixth preference. With this change, many ethnic specialty chefs would no longer be permitted to enter the country. Conversely, S. 448 retains the definition of both preferences, and thus, is more acceptable to the Asian Pacific American community.

Independent Immigration

The independent category of immigration could potentially be utilized by Asian immigrants as investors, highly-educated individuals or hard workers.

Both S. 358 and S. 448 allocates independent visas to the investor who engages in new commercial enterprise in America. OCA supports the allocation of additional visas for the investment of capital and favors the specific provisions contained in S. 448. The provisions contained in S. 448 allow for more visas and less investing capital than those contained in S. 358. Many overseas Asian investors qualify under this category. These investors will bring benefit to the American economy by utilizing foreign capital in this country and creating employment opportunities for United States citizens.

Second, S. 358 outlines a point system that highly focuses on age, education, and English speaking ability. S. 448 outlines a point system that is designed to evenly categorize professional, skilled, and unskilled individuals of varying ages, language skills and educational requirements. English language ability is not a criteria in S. 448. OCA favors S. 448, because it does not allocate a separate point category for English speaking ability.

The independent category was established to give non-sponsored immigrants the opportunity to make a contribution to this country. OCA believes that a criteria based on education and skills and not English speaking ability, should be established to judge an applicant's potential for productivity in America. For example, compare a college-educated person from Germany who doesn't speak English well enough to qualify for the allocated points, with a non-educated person from Great Britain who's only "talent" is that he was born in an English-speaking country. Under the point system outlined in S. 358, these two individuals will qualify for the same number of points, regardless of the fact that one individual has a college education and the other has no education.

Education should be the key factor in assessing an individual's potential for success. When obtaining a college education in their home countries, many individuals are able to acquire English speaking skills, or are likely to readily develop these skills once they arrive in America. Historically, immigrants from around the world have learned English only after they they have arrived in this country. In fact, thousands of Asian immigrants are now waiting in line for English proficiency programs. The independent category should allow immigrants to develop English-speaking skills and become productive members of American society once they arrive in this country.

Conclusion

Various researchers have concluded that, in recent years, the great influx of Asian immigrants to America has contributed to the nation's economy and workforce. For example, over 15,000 Asian Pacific American engineers, many who were immigrants, work in Silicon Valley's high-technology industries, with thousands more employed in lower-level jobs. Other immigrants have become entreprenuers, and technical experts in areas such as computer science, and medical research, increasing the level of income for the native population. In addition, other immigrants, such as Southeast Asian refugees, have taken low-skilled jobs that were not desired by native-born workers. It is clear that Asian immigrants have benefitted the nation's economy, and in fact, have greatly contributed to a broad and diverse American society.

This testimony has compared two legislative proposals, S. 358 and S. 448, before the Subcommittee addressing legal immigration reform. Some issues contained within the bills are very acceptable to the Asian Pacific American community, such as the naturalization of Philippino war veterans and the need for future comprehensive studies in determining whether legal immigration reform policies have been successful. However, other issues remain controversial and require negotiation between the community and policy decisionmakers. Of greatest importance to the Asian Pacific American community is a fair and equitable reform of the current legal immigration system, with no changes made to narrow or eliminate the current eligibility definitions.

made to narrow or eliminate the current eligibility definitions. The greatest concerns to the community are contained in the following interrelated areas:

- overall immigrant admissions
- annual per-country limitations
- family-based preference categories
- employment-based immigrant categories
- independent immigrant categories.

The provisions contained in S. 448 are much more acceptable to the Asian Pacific American community than those provisions contained in S. 358. OCA believes, however, that S. 358 can potentially address the concer[illegible] the community and looks forward to working with Chairman Kennedy, Senator Simpson, Senator Simon, and other interested Senators to craft a bill that is sensitive to the needs of Asian immigrants. Thank you for this opportunity to testify on legal immigration reform proposals before the United States Congress, an issue of ongoing critical importance to Asian Pacific Americans.

Respectfully submitted,

Melinda C. Yee
Executive Director

ORGANIZATION OF CHINESE AMERICANS®, INC.
EMBRACING THE HOPES AND ASPIRATIONS OF CHINESE IN THE UNITED STATES
2025 EYE STREET, N.W. • SUITE 926 • WASHINGTON, D.C. 20006 • (202) 223-5500
美華協會

NATIONAL PRESIDENT
Frank Liu
SECRETARY
Weiming Lu
TREASURER
Keith Wang
VICE PRESIDENTS
ADMINISTRATION
Margaret Chao
CHAPTER DEVELOPMENT
Irene Wu
COMMUNICATIONS
William Der-Bing
ECONOMIC AFFAIRS
David Der
EDUCATION/CULTURE
Joseph Lee
FINANCE
Samuel Mok
MEMBERSHIP SERVICES
D. Pat Peng
PUBLIC AFFAIRS
Robert Wu
GENERAL COUNSEL
William Hou
EXECUTIVE DIRECTOR
Melinda Yee
PAST PRESIDENT
James Tso
CHAPTERS
Baltimore, Maryland
Boulder, Colorado
Central Virginia
Cerritos, California
Chicago, Illinois
Dallas, Texas
Delaware
Denver, Colorado
Detroit, Michigan
East Tennessee
East Virginia
East Bay, California
El Paso, Texas
Fairfield County, Connecticut
Georgia
Hawaii
Houston, Texas
Kentuckiana
Lehigh Valley, Pennsylvania
Long Island, New York
Los Angeles, California
Madison, Wisconsin
Miami, Florida
Minnesota
North East Ohio
New England
New Haven, Connecticut
New Jersey
New York, New York
Northern Virginia
Orlando, Florida
Pittsburgh, Pennsylvania
Research Triangle Area, North Carolina
South Alameda County, California
San Francisco Bay, California
San Mateo County, California
St. Louis, Missouri
Washington, D.C.
Westchester, New York
Wisconsin

15 May 1989

The Honorable Edward M. Kennedy
Subcommittee on Immigration and
Refugee Affairs
Senate Dirksen Building, Room 518
Washington, D.C. 20510

Dear Senator Kennedy:

Enclosed are the answers to the questions I received from the Subcommittee in connection with the 3 March hearing. Please accept my apologies for the delay in returning these answers to you. Thank you again for giving me the opportunity to testify on behalf of the Asian Pacific American community. I look forward to continuing to work closely with you and your staff in the future.

Sincerely,

Melinda C. Yee
Executive Director

cc: Senator Alan K. Simpson
Senator Paul Simon

QUESTION FOR MS. MELINDA C. YEE, ORGANIZATION OF CHINESE AMERICANS

FROM SENATOR EDWARD M. KENNEDY

TWO OF THE FOUR FAMILY PREFERENCE CATEGORIES UNDER CURRENT LAW ARE SEVERELY BACKLOGGED AND ARE GETTING WORSE. THEY ARE THE SECOND PREFERENCE (SPOUSES AND CHILDREN OF RESIDENTS) AND THE FIFTH PREFERENCE (SIBLINGS OF CITIZENS).

IT WOULD TAKE 1.7 MILLION OR MORE EXTRA VISAS JUST TO CLEAR THE FIFTH PREFERENCE BACKLOGS -- AND THIS WOULDN'T EVEN INCLUDE THE INCREASES OVER CURRENT LAW WHICH WOULD BE NEEDED JUST TO KEEP UP WITH CONTINUING DEMAND.

GIVEN THESE PRESSURES, WE HAVE TO MAKE CHOICES. THERE WILL NEVER BE ENOUGH VISAS TO "FIX" EVERY CATEGORY.

SO WHAT IS WRONG WITH GIVING HIGHER PRIORITY TO FIXING THE PREFERENCE FOR SPOUSES AND CHILDREN OVER THE ONE FOR SIBLINGS?

QUESTION FOR THE HEARING RECORD

FROM: SENATOR ALAN K. SIMPSON

TO: MELINDA YEE, ORG. OF CHINESE AMERICANS

1) YOUR TESTIMONY SUGGESTS ELIMINATING ENGLISH LANGUAGE ABILITY AS A BASIS FOR POINTS IN THE SELECTED IMMIGRANT CATEGORY. MANY STUDIES HAVE SHOWN THAT THE KEY TO EARLY SELF-SUFFICIENCY AND EMPLOYABILITY OF INDOCHINESE REFUGEES IS ENGLISH LANGUAGE ABILITY. WHILE I WOULD AGREE WITH YOU THAT, AT SOME LEVEL, EDUCATION AND LANGUAGE ABILITY OVERLAP, THEY DO NOT OVERLAP ENTIRELY.

-- IF TWO PEOPLE, OF EQUAL EDUCATION LEVELS, WISHED TO IMMIGRATE, AND ONE OF THEM WAS ENGLISH PROFICIENT AND THE OTHER WAS NOT, WHICH IMMIGRANT DO YOU THINK WOULD BE MORE IN THE NATIONAL INTEREST TO ADMIT, AND WHY?

QUESTIONS FROM SENATOR PAUL SIMON

To Melinda C. Yee
Organization of Chinese Americans

1. Some have argued that the fifth preference is of little use to Asian Americans because it now takes about ten to twelve years to enter the U.S. on a fifth preference visa. Yet 65,000 people annually use the fifth preference. How useful is the fifth preference visa for Asian Americans?

2. My legislation increases the number of 5th preference visas by 25% while the other bill decreases them by 20% for three years and 67% thereafter. Leaving aside the question of numbers of visas, what would be the impact on the Asian American community if we simply restricted the eligibility to unmarried brothers and sisters?

3. You have raised concerns about the extra points granted to English speakers under the point system for independent immigrants under S. 358. My legislation, S. 448, does not grant extra points to English speakers but still emphasizes education, age, skills, and job placement in low unemployment areas. Please outline for the record your position on this aspect of the point system including for what features you believe points should be granted.

ORGANIZATION OF CHINESE AMERICANS®, INC.
EMBRACING THE HOPES AND ASPIRATIONS OF CHINESE IN THE UNITED STATES
2025 EYE STREET, N.W. • SUITE 926 • WASHINGTON, D.C. 20006 • (202) 223-5500
美華協會

RESPONSE TO WRITTEN QUESTIONS

A) (From Senator Edward M. Kennedy)

1) RESPONSE

OCA agrees with the importance of reuniting spouses and children under the second preference. We are also advocating for the preservation of fifth preference eligibility requirements and for a modest increase in visas to help respond to the tremendous backlog problem. The preference category is used regularly, as evidenced by the 64,800 individuals that are united with their brothers and sisters every year. It is not realistic to expect legislation to clear the 1.7 million backlog wait immediately, especially since it is unclear how many of these individuals still want to enter this country. We suggest that a comprehensive study be performed by OMB or INS to assess where those fifth preference applicants are and to make recommendations accordingly.

B) (From Senator Alan K. Simpson)

1) RESPONSE

It is important to answer this question with the understanding that the number of points is not the sole basis of selection for independent immigrants. As S. 358 is written, applicants who score a certain number of points are entered into a lottery. Based on luck, a person with fifty points could receive a visa over a person who qualifies for ninety-five points. This system is unfair and leaves too much for chance.

OCA believes that education should be the key factor in enabling individuals to enter this country. Many individuals from Asian countries do not have an abundance of opportunities to acquire English language skills in their home countries, though are highly-educated in their native languages. To promote diversity in the independent immigration system, individuals should be allowed to immigrate and to acquire English language skills upon their arrival in America.

C) (From Senator Paul Simon)

1) RESPONSE

The fifth preference is extremely important and useful for Asian Pacific Americans. Asian Pacific Americans use this preference category more than any other ethnic group. Many individuals are willing to wait for ten to twenty years before entering this country. They wait patiently and live their lives in their homelands, often yearning to be reunited with their brothers and sisters in America.

Many Americans of Asian ancestry have filed fifth preferecne petitions. The Asian culture highly values the concept of the extended family and deeply treasures the relationship between siblings. Without this preference category, many family ties would be severed, causing great sadness and remorse in the Asian Pacific American community.

2) RESPONSE

Restricting the eligibility requirement to unmarried brothers and sisters would be counterproductive to the concept of family reunification. As we know, the waiting period for fifth preference applicants is already ten to twenty years. Many individuals would be required to forsake marriage during the prolonged waiting period. Furthermore, a person's tie to his/her family does not change once that person marries. It is unreasonable and irrational to treat married brothers and sisters any differently from unmarried brothers and sisters. Because approximately 75% of those who petition under fifth preference from Asian countries are married, clearly the Asian Pacific American community would be severely impacted by this restriction.

3) RESPONSE

OCA supports the following provisions in a point system for independent immigrants:

- Age
- Education
- Occupational Shortage
- Additional Skills or Work Experience
- Prearranged Employment in an Area with a Low Unemployment Rate

These provisions will help to ensure that independent immigrants possess certain qualities that can contribute to improving the labor market and the economy. English speaking ability should not be a criteria, and unskilled workers should be considered when appropriate. Because the concept of a point system is experimental, OCA believes that a limited number of visas should be made available in the independent category. Once in place, it will be necessary to determine if the system can be improved and to carefully evaluate its effectiveness.

Senator Simon [presiding]. Thank you very much.

Representing the Federation of Americans for Immigration Reform, Mr. Dan Stein, their executive director.

Mr. Stein.

STATEMENT OF DAN STEIN

Mr. Stein. Thank you, Mr. Chairman.

Senator Simon. We will put all your formal statements in the record so where you can summarize them, that is helpful.

Mr. Stein. I appreciate that, Mr. Chairman.

Mr. Chairman, members of the subcommittee, my name is Dan Stein. I am the executive director of FAIR, the Federation for American Immigration Reform. FAIR is a national organization working to end illegal immigration and keep legal immigration rates at manageable levels under an overall ceiling.

Mr. Chairman, Senator Simpson, and Senator Kennedy, FAIR wishes to applaud your leadership and fine efforts in setting out immediately to tackle the tough questions of legal immigration reform.

Senate bill 358 is an important step in the cause of rational reform, and your spirit of bipartisanship in undertaking this effort is an example of the finest statesmanship presently in American legislative affairs.

Mr. Chairman, anyone who reads today's papers cannot help but reach one conclusion: the United States is under tremendous migration pressure from around the world. Your proposal, Senate bill 358, comes at a time when Congress is besieged with demands for special relief.

By the count that I have laid out in my statement, there are currently 15 separate proposals either pending or about to be proposed in Congress to grant extraordinary relief to particular populations.

Globally, population growth is exploding, and we have been predicting for some time a deterioration in the situation. Today, our population exceeds 5 billion, and will approach 6 billion in less than 10 years.

We add about 90 million people a year to the planet, 220,000 a day. In the next 20 years, mostly in developing countries, we will witness the most explosive growth of job-seekers ever witnessed by mankind.

When I talk to reporters, I often say that there are, as we speak, tens of millions of people who would like to come to this country. They look at me incredulously. I wish they could have been here earlier today to hear the estimates of the numbers who will be applying for the latest diversity lottery that was passed last year—10 to 15, 20 million people for 20,000 visa slots.

That suggests to FAIR that America has to be very careful how it selects immigrants. It means it is one of America's most difficult decisions and it should weigh heavily on our shoulders how we make these determinations.

But the migration pressures are only beginning. Senate bill 358 comes at a time when we have just granted amnesty to several million aliens through an extraordinary legalization program and a fraud-ridden agricultural amnesty program. All of these people will be petitioning for relatives over the next 5 years, probably overloading the beleaguered immigration quotas still further.

Illegal immigration continues to be a problem. Employer sanctions, if enforced, can go a long way toward stopping illegal immigration. But, again, it is a resource question, and as the Washington Post this morning suggests, the INS is having a difficult time handling all of the tasks that Congress has told it to do.

The GAO recently noted that IRCA, the Immigration Reform and Control Act, from 1986 is consuming about a fourth of Justice's INS resources, often at the expense of other programs. These costs are in vain if IRCA does not achieve its objective of preventing the employment of illegal aliens.

It seems to us that until illegal immigration is substantially stopped, it is impossible for Congress to formulate rational immigration policy, deciding the numbers and tinkering with quotas.

All of which suggests to us two things. It is either too early or too late to tinker with the preference system. Against the current backdrop of activity, Senate bill 358 appears to be a caviling refinement. Whatever the results of IRCA, the heavy build-up of backlogged petitions will inevitably foster a radical change in how we choose immigrants.

The proposal under Senate bill 358 to engender a 75-year backlog under the fifth preference suggests to us that we need to rethink our entire approach to family preferences. While the status quo cannot continue indefinitely, we advise Congress to move slowly on this question.

Broad national debate is needed to determine where the consensus lies. Please wait until the full impact of IRCA can be evaluated. We put a lot of time and effort, this Nation did, in deliberating these questions, and IRCA represented a substantial change in our law. FAIR believes we need to wait a few more years to get the full impact of that law before we begin to address legal immigration.

As regards Senate bill 358, it is an attractive bill that proposes some important new ideas. Many of its basic reforms are viewed by FAIR as building blocks on which more meaningful reforms may come in the future. Its national level on legal immigration, its modification of the fifth preference, and its skills-based innovations are major advances in our thinking on the subject.

But I would like to point out that I think the discussion here earlier today points out the need to rethink the question of what it is we are really trying to do when we bring in skilled workers or workers for national productivity. It seems as though we need to spend more time studying our labor force needs and how immigrants are going to fit into them. There is legitimate debate over whether or not we are, in fact, going to have a labor shortage. FAIR is not convinced we will.

On the issue of skills and immigrant selection, I would like to throw out one idea. Because the administration has repeatedly said the point system as proposed in the bill is too cumbersome administratively and the credentialing is impossible to verify, perhaps we should reject the standard of professional occupations within a points system and return to the true concept of distinguished merit and ability.

And one idea might be to privatize the nominations of people of distinguished merit and ability, leaving the decision to academic research institutions and corporate research and development arms. These bodies would nominate people who are at the forefront of industrial development in high-technology industries, people whom Barry Chiswick of the University of Illinois at Chicago has observed are people who can expand the productive potential of the U.S. economy simply by being here, regardless of the employer.

In broader terms, we are concerned that the net effect of Senate bill 358 is to increase overall immigration and still promotes family chain migration. Therefore, we cannot endorse it as introduced.

With certain improvements, it has the beginnings of a bill that we could enthusiastically support. These improvements would include a comprehensive ceiling on legal immigration, a national immigration policy that would be attached as a preamble to the Immigration and Nationality Act, merging immigration into overall U.S. population policy, and a move to remove the fifth preference entirely.

Thank you, Mr. Chairman, for the opportunity to appear today. I will be happy to entertain any questions you have.

[The prepared statement of Mr. Stein, along with a question and the answer thereto, follows:]

TESTIMONY OF

DAN STEIN
EXECUTIVE DIRECTOR

FEDERATION FOR AMERICAN IMMIGRATION REFORM (FAIR)

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

Concerning proposed legislation S.358
"The Immigration Act of 1989"

March 3, 1989

TESTIMONY OF DAN STEIN
EXECUTIVE DIRECTOR
FEDERATION FOR AMERICAN IMMIGRATION REFORM
S.358
MARCH 3, 1989

Mr. Chairman, and members of the subcommittee, my name is Dan Stein, and I am the Executive Director of FAIR, the Federation for American Immigration Reform. I am pleased to have this opportunity to present the views of FAIR to the committee as it begins its important work of the 101st Congress. FAIR is a national organization working to end illegal immigration and reform legal immigration to maintain levels consistent with the needs and priorities of the nation.

I want to commend the Chairman and Senator Alan Simpson on their fine efforts in setting out immediately to tackle the difficult question of legal immigration reform. You have both shown outstanding leadership in working toward prompt passage of a bill that makes important conceptual changes in the law. The spirit of bipartisanship that has informed your efforts is an example of the finest statesmanship presently in American legislative affairs.

Summary Statement

S.358 is an attractive vehicle that proposes important, new ideas. Many of its basic reforms are building blocks for more meaningful reforms in the future. Its "national level" on legal immigration, modification of the Fifth Preference, and skills-based innovations are a major advance in our thinking on the subject. We are very concerned, however, that the net effect of the bill will increase overall legal immigration and does not move swiftly enough away from "family chain migration." With certain improvements, it has the beginnings of a bill we could enthusiastically support.

Statement of Context

Mr. Chairman, these proposals come at a time when Congress is besieged with demands for extraordinary relief: statutory "Extended Voluntary Departure" for all Salvadorans and Nicaraguans who care to come, increased admissions and legalization for the Irish and Polish, class-wide relief for Armenians and others from the Soviet Union, "normalized" immigration from Cuba (including the admission for long-term residents of third countries), legalization for all the relatives of amnesty recipients, permanent residence for all H-1 nurses, "efficiency" bills that would in fact increase the number of skilled aliens admitted to work, an update of the amnesty program to whatever day such legislation is enacted, proposals to grant "safe haven" to any alien claiming flight from environmental or civil strife, Executive proposals for "national interest" visas to be used however the State Department sees fit, and an array of legal immigration proposals whose net effect is to simply increase immigration without tackling the structural problems with the current system.

Moreover, we just granted several million aliens unique opportunities to avoid the visa queues through an extraordinary amnesty program and (fraud-ridden) agricultural worker immigration program.

The result: there is enormous pressure on Congress from all manner of special interests to increase immigration generally, and for particular groups. This comes at a time when all national polls show that the American people do not favor any increase in immigration at all.

Also, the problem of illegal immigration continues to dog this country. After a brief respite shortly after IRCA was enacted in 1986, illegal border crossing have resumed unacceptably high levels. Strong enforcement of employer sanctions, coupled with meaningful border enforcement, is needed to stem this flow. Until illegal migration is stopped, it is difficult to formulate legal immigration policy: illegal immigrants come to stay. They add to our population growth. They are still an important component of the immigration equation. Their activity must be taken into account in fashioning legal immigration levels.

Until illegal immigration is substantially curtailed, it is incredible to conceive that any Congress would consider an increase in legal immigration. How can any policy be determined, or quota be set when there is massive law-breaking at the borders?

The GAO recently noted that, "IRCA is consuming about a fourth of Justice's Immigration and Naturalization Service's resources, often at the expense of other programs... . These costs are in vain if IRCA does not achieve its objective of preventing the employment of illegal aliens." (Justice Issues, Transition Series, GAO at 14.) We need to find out if and how IRCA will work.

All of which means one of two things: it is either too early or too late to tinker with the preference system. Whatever the results of IRCA, the heavy build-up of backlogged petitions will inevitably foster a radical change in how we choose immigrants. While the status quo cannot continue indefinitely, we advise Congress to move slowly on this question. A broad national debate is needed to determine where the consensus lies.

FAIR joins with many others who have said, "please wait." Why the rush?

The Provisions of S.358

S. 358, or better known as the Kennedy/Simpson bill, is by far the truest barometer of the need to reform of our current legal immigration system. Although this bill does not contain a firm cap on legal immigration, it does set a "national level" on legal immigrants which attempts to regulate the number of people coming through the relative preferences. The level is set at 590,000 admissions per year, leading to an annual increase in legal immigration of 100,000 persons beyond the current level (470,000 for relatives of citizens and PRA's, 120,000 for "independent" immigrants). The immediate relatives of U.S. citizens are technically unlimited. Those admitted each year would be balanced against the visas to be made available for more distant relatives.

Under S.358, refugees, asylees, SAW workers and amnesty beneficiaries are not numerically restricted.

The bill also regulates the per country limitations by taking into account the previous year's admissions of immediate relatives, in establishing the subsequent year's per country family preference visa availability.

Kennedy/Simpson separates family-sponsored immigration from employment-related visas, and makes important changes in both. The bill removes unmarried sons and daughters 26 years old or older from the second preference. Under the fifth preference, only never-married brothers and sisters may enter.

The bill adds 55,000 visas for a new point system, which through aggregation of other unused visas, could be even higher. Immigrants must score at least 50 out of 95 points under a complex allocation. The points are based on several characteristics that the bill's drafters deemed desirable, including knowledge of the English language. Kennedy/Simpson has an investors category for those whose minimum investment is $1,000,000 to create at least 10 jobs.

This bill modifies the current sixth preference by dropping skilled and unskilled immigrants with jobs that require less than two years training or experience.

Mandated Studies

It also contains periodic administrative review procedures to reset the "national level" of legal immigration. Further, S.358 requires the Attorney General to assess the impact of immigration and report the results to the President annually; with every third year including a report on the need to revise the numerical limitations on immigration.

The Attorney General is required under this bill to confer with the Secretaries of Labor, State, Health and Human Services, Housing and Urban Development, and the Administrator of the Environmental Protection Agency, to prepare a report on the effect of immigration on the United States. This report would address:

"(A) the requirement of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members;

(B) the impact of immigration on labor needs, employment, and other economic and domestic conditions in the United States;

(C) the impact of immigration with respect to demographic and fertility rates and resources and environmental factors; and

(D) the impact of immigration on the foreign policy and national security interests of the United States."

FAIR sees these reports as an integral part in analyzing the overall effect immigration has on the U.S. work force, unemployed, and those living below the poverty level. This information should be reviewed on an annual basis and used as a measure for determining future immigration ceilings and selection policy.

Reforming the Current Law - the Purposes of Immigration

Mr. Chairman, FAIR sponsored a conference last year (June 10, 1988) entitled "The Purposes of Legal Immigration in the 1990's and Beyond." Our keynote speaker was John Higham, a Professor of History at Johns Hopkins University and probably America's foremost immigration historian. Professor Higham made some interesting observations that have a bearing on the matter under consideration today.

Asked what the purpose of immigration is, he commented that "[I]deally, national policy should work against . . . civil strife -- while working in favor of diversity, innovation, and economic well-being."

As Senator Simpson has noted, the current preference system overemphasizes immigration from relatives of immigrants already here. Some 85 percent of visas come from only two regions in the world.

Responding to that fact, Professor Higham noted the current system of family preferences does not encourage diversity in the immigrant stream or the related "injection" of innovation that diversity provides:

> [T]wo of the constructive, long-term effects of immigration that I have mentioned are not, in my opinion, adequately supported by present policies. These policies do not do

> enough to sustain the diversity and innovation that immigration has traditionally given us. The problem is rooted in a new set of preferences introduced in the law of 1965. In the name of family reunification, these preferences gave a high claim on admission to certain relatives of immigrants already legally established in the United States. The family reunification preferences have tended to preempt the annual quotas and, in doing so, to reinforce and perpetuate existing patterns of migration. Instead of opening a way for leaders striking out on their own to make a new life, we have, with the best of intentions, granted a preference to followers pursuing the family chain.

Professor Higham explained the phenomenon of immigrant "innovation" as follows:

> A second beneficial, long-term effect of immigration is closely connected with the fluid diversity of which I have been speaking. If immigration comes from different and changing sources, it encourages innovation. At the simplest level, let us note the prominence of the foreign-born among American inventors and also as entrepreneurs and technicians in new, high-risk industries such as textile manufacturing in the early 19th century, investment banking in the mid 19th century, and movie-making in the early 20th century. Migration loosens and sometimes breaks the bonds of tradition. It creates needs that cannot be met in customary ways, while throwing together people with rich, unsuspected potentialities. More abstractly, innovation may be said to flourish under the stimuli of mobility and cultural diversity which have been the basic parameters of the American immigrant experience.

But he did note at least one negative from immigration. Professor Higham observed that a product of too high of a level of sustained immigration can lead to social and political strife. He pointed to the 1850s and the 1920s as periods when the civic fabric was strained:

> In the stretching, it was actually strengthened, I think. But recovering tolerance and civic harmony depended in both instances on a period of relief from heavy immigration during which an inclusive national enterprise could bring together old and new Americans. The American Civil War resolved the crisis of the 1850s by reducing immigration greatly and by uniting immigrants with natives in a common struggle to save the Union. The crisis of the 1920s was dissipated partly by immigration restriction and partly by the subsequent challenge of the Great Depression.

Mr. Chairman, if I may add, today is not 1920, and the goals of our immigration policy are more complex. We know more as a nation today. Our continent is developed and populated. The frontier is no more. In addition to innovation, diversity and the avoidance of civil strife, we need economic and individual well-being for all Americans.

Global population has exploded. At the height of "Ellis Island" at the turn of the century, world population had just exceeded a billion for the first time in human history. Today, global population exceeds 5 billion and will approach six billion in less than ten years. We add about 90 million people a year to the planet, 220,000 a day. In the next 20 years, mostly in developing countries, we will witness the most explosive growth of job seekers ever witnessed by man!

This growth has manifested itself as migration pressure to the United States. It is incumbent upon the United States to develop a comprehensive immigration policy to plan for the future, rather than simply respond to each crisis as it is generated. This policy must respond to the other national priorities with which it competes, including our domestic population, economic and social policies.

What are these policies?

* Protect Americans on the bottom of the economic ladder. This is not 1920, and we have since sought to equalize the bargaining leverage between worker and owner. Do we seek to reverse that progress and return to the sweatshop? If so, we are already well on our way in cities like Miami and Los Angeles.

America still has her own refugees to worry about.

* Generate meaningful work opportunities for all Americans. Well-known economists, such as Barry Chiswick at the University of Illinois at Chicago and Vernon Briggs at Cornell University, have observed that highly skilled immigrants with expertise in high-growth, high technology fields have the capacity to generate increases in the productive potential of American industry. These kinds of immigrants expand the U.S. economy in a way that provides American workers with meaningful job opportunities. On the other hand, the massive immigration of unskilled aliens, to the extent any jobs at all are generated, tends to result in the availability of poor jobs at substandard wages.

Many Americans still want their shot at the American dream.

* Stabilize population growth. It has been an essential element of U.S. population policy for the past 20 years to try to maintain a stable population size here. This is based upon the perception among many in America that growing populations place unneeded strains on a countries natural endowments, its resources, its farm land, its open space and its standard of living. No national problem is truly solvable by generating a larger population, and most are made more difficult. We see the effects of overpopulation around the world everyday, and it remains a vital national consideration.

The question goes beyond simply whether the nation can employ many more people from around the world -- no doubt it could, sooner or later -- or pave over all its farmland with cement and prefab homes -- it could -- but, rather, whether such intensive development produces the kind of environment that most Americans want for their children and grandchildren.

* Maintain national unity and the rule of law. As Professor Higham's comments suggest, there is such a thing as "a national enterprise." And as Thomas Paine noted, "in America, law is king." If so, our immigration policy should be fashioned to promote these concepts. This is actually an offshoot of the concept of diversity in the immigrant stream. By promoting diversity, immigrant groups do not persist in hanging on to the customs of the "old world," and instead through their enterprise and factional coalitions, become a part of the American engine. It also avoids forming "ethnic" lobbying groups that seek to influence American immigration policy with a drum beat of "more of my own kind."

The Provision of S.358 v. the Goals

So how does S. 358 stack up?

I should point out to the subcommittee that every national poll taken to date on the question of legal immigration, shows broad support for decreasing current levels of legal immigration, with almost no support for increasing these levels.

Why then do we consider proposals to increase legal immigration above current levels? Do we need more? By whose account, and on what premise? We should not have to "buy off" the current beneficiaries with an add on to insure no ox is gored. FAIR would be pleased to support an immigration ceiling at the current level so long as ameliorative changes were made in the structure and operation of the law.

The increase in numbers notwithstanding, S.358 represents a positive shift in our thinking on immigration to this country. There is a consensus in this country that we need to revise the selection process to de-emphasize family connection in the immigration selection system. This bill properly suggests that selection should be based "not on who you know, but on what you can do for this country"; on one's ability to perform and achieve in a highly skilled environment.

Moreover, without an emphasis, on skill and education immigration has no chance of helping the U.S. compete with other highly industrialized nations in the increasingly hostile and competitive arena of foreign exports. This is not to suggest, however, that we should be in the business of robbing developing countries of all their human talent. To balance these competing interests, skills-based migration must be narrowly tailored to select only those whose role fits that described by Professor Chiswick: to expand the productive potential of advanced industry.

Other Considerations

* Establish a national immigration policy. S. 358 does contain a valid, important reporting requirement. We strongly support the reports required. But what is needed at the beginning of the Immigration and Nationality Act is a preamble of intents and purposes. Unlike other important organic statutes, such as the National Environmental Policy Act, the Immigration and Nationality Act does not contain an opening preamble that sets out the purpose of legal immigration. Such a preamble would be helpful to courts and future Congress in interpreting the statute. We have suggested appropriate language available.

* Help the U.S. maintain a stable population consistent with the needs and resources of the nation. Legal immigration rates must be set at rates that will not cause additions to U.S. population size. The vehicles for detailed demographic analysis and projections ought to be created so that Congress can set a national level on legal immigration every few years. We should recognize that projections of the numbers of immigrants who will enter as a result of a given bill are almost always understated. Consider the 1965 Act: despite assurances from its sponsors, legal immigration more than doubled after the law's passage. Those sponsors fought hard against a ceiling on Western Hemisphere migration, arguing it showed no signs of growth. Consider, too, the Refugee Act of 1980, where a "normal" flow was defined as 50,000 a year. Ironically, almost ten years later that definition of "normal flow" has nearly doubled, and will likely quadruple given the current flood of political asylum applicants in south Texas and in Miami, Florida. It hard to imagine the day when we will once again have only 50,000 refugees admitted in a single year.

* Respond to the national interest first, and the desires of intending immigrants second. Presently, it is the desire of intending immigrants that are setting the agenda on legal immigration, not the needs of the American people. Many participants at FAIR's, 1988 conference on legal immigration concluded that the current system of family preference is nepotistic and no longer serving the national interest. The consensus was that the United States we should select immigrants more on the basis of what needed talents and skills they bring. But we must adopt a policy that judges people on the basis of individual merit rather than national origin, race or "family connections." This bill (S.358) moves ever so delicately in that direction with its proposed "points system."

* Recognize that the so-called "family reunification" program no longer serves to unify families involuntary separated because of displacement and war. It now functions as a "family migration" system. While S.358 makes some provision for new seed

immigrants who can enter the U.S. based on skills they can offer America, the great bulk of immigration visas will continue to go to people selected by the immigrants themselves, perpetuation the current system of nepotism.

We need a serious overhaul of the preference system, to merge skills-based immigrants and their immediate families into one overall system for migration.

* Eliminate the backlogs and their causes. Backlogs create all sorts of problems. They create unfulfilled expectations among prospective migrants, incentives to migrate illegally, and the appearance of unfairness in the immigration system at large. Again, packet migration of immediate family with the skilled alien principal would resolve this problem.

The net effect of backlogs is to generate political pressure to simply add more visas. Perhaps the subcommittee might want to consider a moratorium on new applications on certain preferences until the backlogs are removed. The backlog reduction proposals of S.358 demonstrate the difficulty of dealing with this issue. Allowing long backlogs to build up simply does not work.

* Eliminate the fifth preference. In the modern, shrinking world, where nearly everyone lives just a few minutes by telephone from everyone else, and where it may actually cost less for an immigrant to fly home to Mexico City, London or Seoul than for Congressman to return to his district, the concept underlying the fifth preference appear to us antiquated. Nonimmigrant visas and the ease of transoceanic travel eliminate arguments for the fifth preference.

The number of applications has grown steadily. In 1979, there were 200,000 applicants, and today, nearly 2 million. Moreover, fifth preference registrations have also increased as a proportion of the overall backlog. Opponents from a small group of countries dominate.

S. 358 does not completely eliminate the fifth preference, and, although the proposed modification will help eliminate the incentive for backlogs, it will not enhance diversity or promote seed migration to the desired extent.

* Establish a ceiling on legal immigration. Mr. Chairman, we applaud your leadership and that of Senator Simpson for your important progress in proposing a national level on legal immigration. This is a first important step in realizing the importance of an overall cap on all legal immigration, one that will include refugees. Without an overall cap that includes refugees, there will be no incentive to keep refugee admissions to manageable levels. We are already seeing this phenomenon.

The statements to this subcommittee by groups opposing a ceiling -- at any level -- suggest that they suspect what we already know: without a ceiling, legal immigration will only grow. Please consider an overall, comprehensive ceiling on legal immigration; one that includes refugees.

* Periodic studies and review. S.358 takes an important step in this direction, with the requirement for an annual report from the Attorney General to consider economic conditions, fertility rates, population size, environmental considerations.

FAIR strongly supports the inclusion of this reporting requirement as a first step in giving the American people the kind of information needed to fashion future policy.

The recent GAO report, "Data Not Sufficient for Proposed Legislation," GAO/PEMD-89-8, per your request, Mr. Chairman, simply points out what those of us in the immigration field have known for years: the government does not keep adequate immigration data to enable the Congress to make intelligent policy decisions. (The National Academy of Sciences reached this same conclusion in 1984.) There is an institutional desire "not to know" many of these questions. But that should not prevent us from asking them.

The GAO report should not be used as a reason to eliminate the proposed reporting requirement in section 102. Rather, we need to put in place now the instructions to the Executive to engage in the required longitudinal work so that we may begin develop the expertise and to keep track of the impact of immigration. The report merely proved that few people in the government are accustomed to viewing immigration policy in anything but a vacuum.

We hope the Committee will retain this feature of the proposed bill.

* Protect American Labor. Skilled migration is useful if it is purposeful. But employers should not be permitted to import low cost labor just because a shortage is claimed. More importantly, the availability of imported workers should not relieve employers of their obligation to the community and our educational institutions (particularly public primary and secondary schools) to train our own people to prosper in the high-tech economy of tomorrow. It would be too easy to deal with the pending literacy and skills crisis in American labor by simply importing the talent. It would be a mistake to abandon our own.

In that regard, it is useful to reinstate the distinctions between "distinguished merit and ability," "professional," and "work experience." (See also, addendum to this statement.)

A points system, properly administered, has the potential to 1) enhance diversity, 2) promote innovation, and 3) bring people here who have exceptional abilities or skills that will improve the productive potential of the U.S. economy. As we envision it, these are not mere "professionals" with four year degrees or equivalent experience. These are key people with key talent in the emerging industries, as determined by leading industry and academic research institutions.

The points system proposed in S. 358, with its generalized "occupational demand" criterion, is a somewhat crude, early effort at such a system. We believe it is unworkable because of the administrative costs involved and the difficulty of verifying credentials at that level. The entire idea needs a great deal more study and consideration.

On the "English Language" provision of the points matrix: FAIR does not oppose this allocation, so long as it is not solely a pretext to raise admissions from Western Europe. English speakers are more marketable, likely to assimilate quickly, and as regards international trade, where English is a second language, such an individual may enhance the ability of U.S. industry to expand to markets overseas. In other words, the English language factor is rationally-based and should not be eliminated absent compelling reasons not yet articulated.

What We Steadfastly Oppose

1. We oppose any effort to remove Permanent Resident Aliens from the overall ceiling:

2. We oppose any effort to accelerate naturalization periods as a means of clearing backlogs or other administrative consideration.

3. We oppose any effort to add visas simply to clear backlogs anticipated from the IRCA legalization program.

4. We oppose the efforts of organizations whose members have a direct, pecuniary interest in increased immigration from arguing that the current nepotistic system of family selection should be preserved on humanitarian grounds.

5. We oppose the proposed S. 358's change in Section 212(a)(14) that seeks to regionalize the labor certification analysis. It is a fact of life in this country that real estate is becoming more expensive, housing less affordable, and, therefore, the supply of semi-skilled and skilled labor less responsive to certain markets. It is a reality we must face, the supply of land is not unlimited. The solution, in many cases, is for employers to pay more, not to import more workers. (See addendum.)

Mr. Chairman, thank you for this opportunity to present the views of FAIR on this important legislation.

Addendum

H-1 ADMISSIONS

Mr. Chairman, the H-1 program, originally designed for the admission of aliens of distinguished merit and ability, is rapidly becoming a program for the quasi-permanent admission of mid-level skilled employees. We do not believe this is what Congress intended, and we are concerned American workers will soon be threatened if present trends continue.

The consulting firm of Booz, Allen & Hamilton, Inc., on INS contract, recently released the results of a study on the use of H-1 workers. In particular, the firm studied a) whether or not the current use of H-1's were displacing or otherwise harming competing American workers, and b) whether the current regulatory interpretation of the INS under INA section 101(a)(15)(H)(i) is consistent with the statutory term "aliens of distinguished merit and ability."

On the latter point, the study found what most immigration specialists already know: many individuals with arguably less than "distinguished merit and ability" are being admitted as H-1s. In fact, nurses, computer specialists, managers and executives, and educational personnel area admitted as professionals with "distinguished merit and ability." Booz, Allen concluded that both current and proposed H-1 regulations appear to go far beyond statutory intent:

> [W]e believe that the admission of large numbers of H-1s to entry- or middle-level professional positions results in a blurring of the public perception of the purpose of the H-1 program, and also creates difficulties for INS in the administration of this program. . . . The ability of H-1 employers to use the program in this manner, and the resulting often-blurred perception of purpose and possible impact of the H-1 program among employers and the public, is coupled with problems in the adjudication process as administered by INS. The necessity for INS to adjudicate a large number of petitions which only nominally and minimally correspond to the "distinguished merit and ability" standard not only increases the adjudication workload; it also leads to approval of petitions for persons who are not in any meaningful sense progressional of "distinguished merit and ability." We do not believe that this use of the program corresponds to its original statutory intent. (viii)

The Booz, Allen study recommends a "modification" to the benchmark administrative decision Essex Cryogenics Industries, Inc., Int. Dec. #2164 (September 22, 1973), 14 I & N.Dec. 196 (Dep.Assoc.Comm.1972), which held that a baccalaureate or equivalent is prima facie evidence of professional qualification for designation as an alien of "distinguished merit and ability." See also, Matter of Asuncion, 11 I & N. Dec. 660 (R.C.1966).

The consultant recommends that either Congress change the definition in the statute, or the INS stop calling mere B.A.'s professionals. Unfortunately, the recent tendency is in the opposite direction. A very recent Federal district court decision suggests the standard will deteriorate further. The court held that requiring a B.A. as evidence of professional status is arbitrary and capricious; a District Director decision so finding was overturned. Hong Kong T.V. Video Program, Inc. v. Ilchert, 658 F.Supp. 712 (N.D. Cal. 1988) (corporate "President" is a professional; extensive work experience as sales representative and business manager satisfies the definition).

We are concerned about trends in the H-1 program. Labor certification is not an H-1 statutory requirement, and FAIR does not believe the current H-1 statutory language was designed to admit persons at entry- or mid-level positions, with limited educational or professional experience, solely for the purpose of filling perceived occupational labor shortages.

The study (and a similar one of L-1s), claims there is no adverse wage effect associated with current H-1 admissions in FY86 and FY87. The study simply compared with average wages of H-1 workers in a metropolitan labor market with those of American workers similarly situated. The purpose: to determine whether H-1s were paid less than Americans.

The case of nurses provides the most vivid illustration. Not surprisingly, the study found that H-1 nurses, even in New York City, are not paid below the prevailing wage rate in the labor market area. From this, the study concludes that H-1 admissions do not harm opportunities or wages of Americans.

The study has obvious problems: it is not longitudinal. It is merely a snapshot in time. It assumes that the prevailing wage in a labor market is the adequate wage (to attract American workers to the nursing profession). The same study noted that employers believed "existing vacancies are due largely to intrinsic characteristics of the nursing profession. Such issues as low salaries, lack of autonomy, lack of support staff for nurses, long hours, and poor relations with doctors were cited as contributing to a lack of interest in nursing." (III-5) In fact, nursing has become a relatively unattractive profession to women when compared to the alternative opportunities now available in the marketplace. It is the obligation of the employer to enhance the attractiveness of nursing as a profession. An expansion of H-1 nurses would diminished that incentive.

Mr. Chairman, it stains credulity to believe that the admissions of H-1 nurses are not affecting the working opportunities of American nurses when nurses across the country are on strike. We must be very careful to insure that employers who claim they are faced with an acute, short-term shortage are not looking for a permanent infusion of foreign workers to hold down wages.

H-1 admissions of any type can, if abused, interfere with the normal training and recruitment process of the doestic labor market. So long as jobs such a nursing are relatively undesirable, American students will choose other courses of study, and seek other career alternatives.

There are legitimate circumstances where an acute, temporary shortage in a vital industry may occur. In these exceptional circumstances, short-term admissions might be appropriate. But the current trend in H-1 is to admit thousands of workers for up to six (maybe even seven!) years for permanent jobs under the naive expectation that employers will work to train American workers in the interim. The results are predictable.

FAIR
Federation for American Immigration Reform
1666 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20009
202 328-7004
FAX 202 387-3447

Board of Directors
Sharon Barnes, *Chairperson*
Sidney Swensrud, *Chairperson, 1987-1988*
John Tanton, *Founder & Chairperson, 1979-1987*
Dorothy R. Blair
Sarah G. Epstein
Otis Graham
Janet Harte
Richard D. Lamm
Thad Rowland
Roger Conner, *President*
Daniel Stein, *Executive Director*

National Board of Advisors
The Hon. Richard D. Lamm *Governor of Colorado, 1975-1988 Chairperson*
Jeanne Viner Bell
The Hon. Ernani Bernardi
Warren E. Buffett
General Daniel S. Campbell
Bruce Morgan Casner
Cleveland Chandler, Ph.D.
William Chip
The Hon. Shelby Cullom Davis
Anne H. Ehrlich
Paul R. Ehrlich, Ph.D.
James R. Epstein
Helen Graham
Walter E. Hoadley
The Hon. Walter D. Huddleston
Jacquelyne J. Jackson, Ph.D.
Edward Levy, Ed.D.
The Hon. John V. Lindsay
Henry Luce, III
K.C. McAlpin
Bea McClintock
Helen Milliken
Paul Paddock
Robert Park
Roger Tory Peterson
The Hon. William French Smith
The Hon. Elvis J. Stahr
Monica Bell Steensma
Gordon G. Wallace
Peter M. Wege
The Hon. Robert L. Yost

FAIR is a non-profit public interest organization working to end illegal immigration and set reasonable levels of legal immigration

April 14, 1989

Senator Edward Kennedy
United States Senate
Subcommittee on Immigration and
Refugee Affairs
SD-518 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Chairman Kennedy:

Thank you for allowing me to testify on behalf of FAIR before your subcommittee March 3rd. As always, FAIR welcomes any opportunity to express it's views on immigration issues in an open and candid manner.

In your recent letter, you raised a question as to what FAIR's position was in regard to policy for selecting legal immigrants for admission into the United States. It is gratifying to know that you would take the time from your schedule to ask for a verification of FAIR's position. Enclosed is an answer, for the record, to your question.

Again, Senator Kennedy, thank you for opportunity to appear before your committee and I look forward to the next time we may meet. FAIR remains at your service to answer any additional questions you may have.

With kindest regards,

Dan Stein
Executive Director

Encl.

Question from Senator Edward M. Kennedy
to Dan Stein, Federation for American Immigration Reform

IN SEVERAL PLACES IN YOUR TESTIMONY, YOU STATE THAT THE IMMIGRATION OF SKILLED PEOPLE SHOULD BE ENCOURAGED. YET, ELSEWHERE IN YOUR STATEMENT, YOU ASK THAT SKILL-BASED IMMIGRANTS BE MERGED WITH FAMILY-BASED IMMIGRANTS IN ONE OVERALL SYSTEM. THIS SEEMS TO BE CONTRADICTORY. IF YOU WISH TO PLACE EMPHASIS ON SKILLS, WHY MERGE THIS TYPE OF IMMIGRATION WITH FAMILY, WHICH IS JUST A CONTINUATION OF THE PRESENT SYSTEM?

The Federation for American Immigration Reform (FAIR) seeks an immigration selection system that functions under an overall annual ceiling. FAIR contends that any restructuring of the current legal immigration system should be centered around three distinct features: 1) an emphasis on skilled immigrants, 2) a firm annual cap on the number of entrants -- a cap that includes refugees, and 3) the implementation of a system that does not foster backlogs.

The policy of family preference dominates the process by which the United States select legal immigrants. The current system, laid out in the 1965 act, was enacted under the banner of "family reunification," a rhetorical holdover from post-War bills such as the Displaced Persons Act that sought to reunite families involuntarily separated by war.

The term "reunification" implies an involuntary separation. It is a refugee term. To apply it to the current nepotistic system of family preference leaves a false impression among the general public. An immigrant who voluntarily comes here for a job should not expect to bring over brothers and sisters-in-law, his brother's adult children, and those children's parents as a matter of right. Certainly not in 1990, when visiting the "old country" can be done in a matter of hours.

The current system creates chain migration, allowing extended backlogs to develop and extending the process over many years. The recent amnesty program will likely extend these backlogs until the entire system becomes completely unmanageable.

Our conclusion, therefore, is that the present system no longer works to serve the national interest, and in many respects is inappropriate to the modern age. The entire preference system needs to be overhauled into a single, comprehensive process. This requires rethinking the entire basis upon which we select immigrants. The phrasing of the question indicates that perhaps I was unclear when I said "merge skills and family." We are not interested in any reform package that leaves the current family system intact. The "family" portion of our version would simply be the opportunity of principle immigrants selected to bring their immediate, nuclear families.

Tentatively, FAIR is looking at a system that allocates visas under one umbrella: principle immigrants are selected based on whatever criteria is deemed desirable by the American people, with provision for immediate family. Visas for immediate family, spouse and minor children, come in under the overall umbrella and must be applied for at the time of admission by the principle. Accompanying immediate relatives must be admitted within three years of the principle or they lose their right to priority.

Principles who do not enter in the year the visa is awarded must apply the next year.

The reason FAIR supports a cap is that there is currently no "tension in the system" to keep the number of immigrants from growing larger and larger. Admitting/deducting the principle and immediate family in the current year prevents the growth of backlogs. Removing extended family preferences rationalizes the process.

Refugees and their immediate families would make up the balance of those admitted under a comprehensive ceiling.

Senator SIMON. Thank you, Mr. Stein.

Mr. Frank Kittredge is representing the Business Immigration Council. He is the president of the National Foreign Trade Council and former vice president of General Electric. And you have someone with you, if you will identify him for the record, Mr. Kittredge.

STATEMENT OF FRANK D. KITTREDGE

Mr. KITTREDGE. Yes, I will as I go through.

Mr. Chairman, Senator Simpson, thank you. My name is Frank Kittredge, president of the National Foreign Trade Council, a nonprofit association of 500 companies engaged in international trade and investment. With me today is Michael Copeland, an executive with Procter & Gamble specializing in international employee relations.

We are pleased to have the opportunity to testify today on behalf of a coalition of organizations interested in business immigration on the subject of legal immigration reform and the Immigration Act of 1989, Senate bill 358.

Although still in formation, our Business Immigration Coalition already includes the American Council for International Personnel, the American Immigration Lawyers Association, the Chamber of Commerce of the United States, the National Association of Manufacturers, and the National Foreign Trade Council.

Among our organizations, we have determined what we believe to be the most pressing problems in need of reform based on our experiences with all types of business immigration law and policy.

We believe the time is right to proceed on the reform of legal immigration in this Congress. We look forward to working closely with you to help shape this reform to benefit the national interest by enabling U.S. companies to compete more effectively in the global markets of today.

The business community commends your efforts on immigration reform, and particularly the proposed creation of the independent immigrant categories as separate and apart from the family-related categories.

In today's increasingly competitive international arena, U.S. business must be able to move key international personnel into and out of the United States with flexibility and efficiency, responding quickly to rapidly changing and increasingly complex business requirements.

We must be able to have the right person with the necessary international capability and experience in the right place at the right time. Otherwise, we face a serious lack of competitiveness.

For example, a German national can join a French consortium or joint venture literally overnight. But to accomplish the same transfer to the United States would take at least 5 weeks on a nonimmigration basis, and more likely a year or more on an immigrant basis.

Just as U.S. companies have for many years had the ability to send employees abroad for development of their international business, so must they now have the ability to bring key personnel predictably and expeditiously to the United States either on temporary nonimmigrant or permanent immigrant status.

The cultural backgrounds, differing business experience, and specific management and technical skills of these individuals can often be critical to the success of a business undertaking.

With regard to your bill, we endorse the creation of the independent immigrant categories, but believe that the job offer or employer-sponsored category needs to be increased to 120,000 annually.

Since this includes immediate family members, the number of jobs involved is perhaps 50 to 60,000. This allocation of 120,000 should be sufficient to both eliminate the current backlog and to meet foreseeable new demand.

As to the employer-sponsored preference category, we would ask you to consider three levels: first, a top level to include all professionals, a second level giving priority to those most needed by international business—that is, executives, managers, technical specialists, and others—and a third covering all other skilled and unskilled workers.

Our Business Coalition is also very concerned about the Department of Labor proposals to revise the labor certification process, allowing them to make determinations on the basis of general national labor statistics.

While this may be helpful to streamline the approval process, we strongly recommend that employers continue to have the right to seek individual Labor Department determination to meet their specific requirements.

If we can leave you with two critical points from the business community's point of view: they are the need for clear predictability so that we will know what can be approved, and the need for expeditious handling so that there are no undue delays or missed opportunities.

We thank you again for the opportunity to present the views of the Business Immigration Coalition and, of course, to submit our written testimony.

Thank you.

[The prepared statement of Mr. Kittredge, along with a question and the answer thereto, follows:]

STATEMENT OF FRANK D. KITTREDGE
PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL
ON BEHALF OF
THE BUSINESS IMMIGRATION COALITION

TO THE
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING
LEGAL IMMIGRATION REFORM
"THE IMMIGRATION ACT OF 1989," S. 358

MARCH 3, 1989

INTRODUCTION

Mr. Chairman and distinguished members of the Committee:

I am pleased to have the opportunity to testify today on behalf of a coalition of organizations interested in business immigration concerning legal immigration reform and "The Immigration Act of 1989," S. 358.

My name is Frank D. Kittredge. I currently serve as President of the National Foreign Trade Council, which is a non-profit association of 500 companies engaged in international trade and investment. We have long encouraged the international mobility of personnel to improve the competitive position of the United States. I have been asked to speak on behalf of the Business Immigration Coalition.

Although still in formation, the Business Immigration Coalition already includes the American Council on International Personnel, the American Immigration Lawyers Association, the Chamber of Commerce of the United States, and the National Foreign Trade Council.

We look forward to working closely with you to help shape legal immigration reform that will benefit the national interest. Among our organizations, we have determined what we believe to be the most pressing problems in need of reform, based on our experiences with all types of business immigration law and policy. While we hope and expect that legal immigration reform will be enacted in this Congress, we also view today's hearing as the beginning of an ongoing process of review and reform of U.S. business immigration policies that will continue long into the future, to the benefit of our nation.

GENERAL REMARKS

The United States, long the leader in international economic development, faces increasing challenges from foreign economic powers as the globalization of the world's economic structure continues. This globalization has seen the development of a truly international market in many industries, resulting in growing pressure on formerly unchallenged U.S. industries to compete efficiently and effectively in the international market place. These changes in the world's economic structure have a direct and measurable impact on the financial well-being and employment opportunities of U.S. citizens.

We have already seen the consequences in a number of industries of the failure of U.S. business to compete successfully with foreign businesses for a share of the international market: business contraction, lay-offs, depressed local economies caused by massive local unemployment, banking turmoil, and instability in the financial markets. Only if the United States moves forcefully to keep its competitive edge in the international market place will the economic well-being and long-term employment prospects of U.S. citizens be assured.

To compete effectively in this market place, U.S. companies need immigration laws that provide predictability in the planning of international movement of key personnel.

They also need expeditious procedures that assure that personnel decisions can be implemented within reasonable time frames. Mobility of key personnel is essential for proper corporate functioning in the international economy.

Yet, our present legal immigration laws and policy, rooted in legislation enacted in 1952, have failed to keep up with these evolving needs. As a result, U.S. based employers that need the skills of international personnel confront a variety of disconcerting obstacles in a process characterized by inflexibility, delay, and an absence of predictability. For example, if a visa petition had been filed in the 3rd preference last May, there was a 5 month backlog in this category. Given normal progress, it could have been predicted that this employee would transfer by year's end. As of today, this petition still is not current, and the company that needed this employee is still waiting. It is now estimated that this employee won't be able to enter the U.S. until the fall of 1989, if all goes well. This handicaps the U.S. firm that needs this professional's services and gives an advantage to the competition.

The ability to have the right person with the best technical or managerial skills in the right place at the best possible moment can make the difference between a successful project undertaken ahead of the foreign competitors, and an also-ran position that might effectively close the U.S. company out of the market altogether. We have seen too many instances in which foreign companies who were there first in a particular field have taken away such a large proportion of the market share that U.S. firms have completely removed themselves from competition in the field.

American companies have for many years sent select personnel abroad to fill managerial and technical positions in their foreign operations, and these international transfers have usually been handled expeditiously by host countries eager to assure successful projects leading to improved local employment and enhanced economic activity. Many of these same countries that have eagerly welcomed U.S. business transfers in the past are now our fiercest competitors for international market share. Ironically, when U.S. companies need to bring foreign personnel to the United States to maintain a competitive position in a particular field, they do not have the ability to make similar expeditious transfers of personnel. The current system of immigration laws does not provide the needed flexibility and efficiency that is needed when businesses make the difficult decision, with its attendant relocation costs, to bring a key foreign employee to the United States.

The benefits of a system for expeditious and flexible transfers of key foreign personnel ought to be manifest. Foreign employees with U.S. work experience can represent the company's interests better when reassigned abroad by properly understanding methods and procedures of the U.S. company and U.S. business generally. Employees with U.S. experience and exposure to the U.S. market usually leave with a positive impression of U.S. economic principles and products that can lead to a continuing relationship with U.S. firms even if they leave their U.S. employers in the future -- a relationship that can mean important orders for goods or technology transfers resulting in a direct inflow of foreign dollars to the U.S. economy.

In many important science and engineering fields, foreign employees have done some of the most innovative research which U.S. companies must have access to and take advantage of in order to continue to be competitive. Foreign managers and marketing specialists can bring to U.S. firms their unique knowledge of local marketing conditions and consumer preferences that can make the difference between success and failure in penetrating foreign markets. The foreign nationals who will lead the local affiliates and subsidiaries of U.S. companies abroad in key managerial positions must be given the opportunity to advance without restriction within the worldwide international organization of U.S. companies, including advancement into the U.S.-based corporate hierarchy, or these foreign nationals will opt out of working for U.S. firms, much to the detriment of these firms in foreign competition. American companies cannot afford to consistently get second choice of the best foreign managerial personnel because U.S. immigration laws make employment by these firms a less desirable alternative to the best foreign minds with other good options.

We in the Business Immigration Coalition wish to work with you in the Congress to develop legislation that enables U.S. companies to compete effectively in the global market place. We want to help you to see how current laws and regulations cost the U.S. in both dollars and productivity. We are not here to seek special favors or protection. Rather, we are here to show you how we need to be able to respond quickly and with confidence in our highly competitive world. We do not seek this at the expense of other groups. We need new laws to be able to meet the foreseeable challenges of the 1990's.

The Business Immigration Coalition commends Senators Kennedy and Simpson for their leadership and initiative in seeking reform of the nation's immigration laws. In particular, S. 358 is a step in the right direction toward providing American business with the predictability and efficiency that is needed from immigration laws and procedures in order for U.S. business to operate most effectively in international markets. The coalition supports many aspects of the bill, most particularly the proposal to establish a distinct numerical allocation system and preferences for immigration to "independent immigrants," which includes both "new seed" immigrants as well as the "employer-sponsored" immigrants that the business coalition is most interested in. We also believe that U.S. immigration policy should include mandatory, periodic review of America's immigration laws, in order that they will continue to serve America's best interests by remaining flexible and responsive to changing needs and conditions.

We have some suggestions to enhance these proposals. In particular we seek an increase in the allotment of visas for employer-sponsored immigration. However, the overall contours of immigration reform set forth in the proposal of Senators Simpson and Kennedy are to be applauded. The coalition would like to indicate its belief that immigration reform that will effectively address many of the concerns of business in its efforts to compete internationally would also include a review of the entire structure of the immigration statute, including nonimmigrant categories and procedures affecting the business community.

Immigration and nonimmigrant entry of personnel are integral parts of the same business planning and amendments to both aspects of the law would be far more effective than reform of only one aspect. Fortunately, many of the changes to the nonimmigrant area that would improve business efficiency and enhance predictability are technical or procedural changes in the nature of "efficiency" amendments. We have included with our testimony our suggestions for efficiency amendments that we urge this subcommittee to consider in its review of immigration legislation. Its inclusion at this time in immigration reform legislation would add significantly to the importance of the current proposals.

COMMENTS ON LEGAL IMMIGRATION REFORM

SEPARATION OF FAMILY IMMIGRANTS WILL PROVIDE NEEDED INCREASED ATTENTION TO EMPLOYER-SPONSORED IMMIGRANTS

The members of our coalition support the separation of the family-based immigrant categories from the non-family categories and the separate allocation of annual admissions numbers to each.

From our point of view, employer-sponsored immigration, such as under the current 3rd and 6th immigrant preference categories, deserves independent and substantial attention from Congress and the Administration because of its direct impact on U.S. businesses and the economy. Therefore we support the separation of family-based immigration as proposed in S. 358.

Although several of our member groups have strong views on the subject of family-based immigration, we have no position as a coalition on the proposals of S. 358 relating to the family-based categories, allocation of annual admissions, or the inclusion of immediate relatives under an overall national level of legal immigration.

INCREASED ADMISSIONS FOR EMPLOYER-SPONSORED IMMIGRANTS ARE CRITICAL FOR U.S. BUSINESSES

U.S. employers rely on the employer-sponsored immigrant categories, the current third and sixth preferences, to fill critical personnel needs where qualified U.S. workers are not available. While the Business Immigration Coalition appreciates the values of family-based immigration as well as the new proposals for non-sponsored, "new seed" immigration, these types of immigration do not directly address or fulfill the needs of business and industry.

Unlike family-based immigration and non-sponsored, new seed immigration, employer-sponsored or "job-offer" immigration provides a direct benefit to the national interest. The employer's need is not a statistical projection or forecast, there is an actual job at a specific job site to be filled. Most employer-sponsored immigration is based on an actual test of the labor market for qualified U.S. workers and certification of unavailability the Labor Department. Labor certification also prevents adverse effects on wages and working conditions of other U.S. workers. Moreover, immigrants who qualify under the employer-sponsored categories are immediately employed and self-supporting as a condition of their admission. And, like those sponsored by their families, employer-sponsored immigrants can and do rely on their employer and co-workers for assistance and support in adjusting to American life.

For years, the annual number of employer-sponsored immigrants has been limited to 54,000. Of that number, more than half are used each year for the family dependents of employee immigrants. As a result, less than 25,000 visas per year have been available to foreign born workers qualified and willing to work in certified shortage occupations in the United States.

The present low number of visas available annually for employer-sponsored immigrants translates into delay for business and industries in the United States. The employer-sponsored immigrant "professional or alien of exceptional ability in the arts and sciences" for whom a visa is available in this month, March, 1989, was fully qualified for legal immigration one year ago, in March, 1988. The entire one year wait was simply for the visa to become available due to the low number of such visas.

The backlog for workers in the "skilled or unskilled" category is worse; the qualified employee immigrant admitted in March, 1989, was legally qualified for an immigrant visa in February, 1986, almost three years ago. And, for nationals of the six oversubscribed countries, the wait is even longer.

Extensive delays in admissions of needed international personnel translates in business to delays in projects, delays in production, and decreased economic competitiveness. In our opinion, it should be the goal of legal immigration reform that once a shortage of qualified U.S. workers is certified for a particular job, the delay before a qualified immigrant can be admitted should be minimal.

The Business Immigration Coalition recommends that 120,000 visas be made available annually for employer-sponsored immigrants.

Legal immigration proposals in the last Congress would have resulted in as many as 150,000 visas per year for the non-family immigrant categories. An allocation of 120,000 of these non-family visas to the employer-sponsored immigrant categories could be expected to meet current needs and contribute to the substantial reduction of backlogs in the employer-sponsored categories.

The total backlog in the combined employer-sponsored categories (3rd and 6th preference) in January, 1988, was about 107,000 registrants. Estimating about 75,000 new applicants in the past year, 1988, the total backlog for employer-sponsored immigrants could be expected to hit about 128,000 registrants by January, 1989. Roughly speaking, based on these estimates, the proposed allocation of 120,000 visas per year could be expected to eliminate backlogs for all categories in one or two years and thereafter make available unused visas for "new seed" immigrants or other reallocation upon the triennial review.

THE PRESENT EMPLOYER-SPONSORED IMMIGRANT CATEGORIES SHOULD BE RETAINED BUT REVISED TO REFLECT BUSINESS NEEDS AND PRIORITIES

In our view, the primary problem with the current job-offer categories--third preference for professionals and exceptional ability aliens and sixth preference for skilled and unskilled workers--is the inadequate number of visas available to each category. Secondarily, we believe that the employer-sponsored immigrant categories could be revised to better reflect the current needs and priorities of U.S. based employers.

S. 358 proposes to separate professionals with advanced degrees and exceptional ability aliens to a new, higher category, leaving other professionals to a lower group. This proposal is of extreme concern to the business community. This change will restrict access to the use of this category from those it is intended to serve. The present state has served business reasonably well in a functional and efficient manner. Our main concern in the past is that there have been too few visas available. Restricting access to these visas will not allow U.S. businesses to move key managers to the U.S. without unacceptable delays.

With a modest increase in the visas available annually to the higher level, aliens of exceptional ability in the arts and sciences and *all* professionals (3rd preference), could be admitted immediately, which would render the proposed distinction between professionals with advanced degrees and other professionals less relevant. That is, we believe the current 3rd preference definition, that includes professionals and exceptional ability aliens, should be preserved as it now stands with the addition of exceptional ability aliens in *business* and *education*.

Of the remaining employer-sponsored immigrants, we believe that priority should be given to higher level business personnel. Therefore, we propose a new, intermediate category for *managers, executives, prominent business persons, and specialized knowledge personnel*. Separating these employees into a separate, higher priority immigrant category more accurately reflects the needs and priorities of U.S. businesses. In other words, we believe that immigration priority should be based more on the needs and priorities of the sponsoring employer and the position and needed skills of the employee, and less on the length of time the employee spent in school or in training.

As the Committee knows, each of the occupational definitions suggested for this intermediate category are recognizable under current law and, while in need of some revision, would prove quite serviceable in present and future eligibility adjudications.

Finally, we note, in the introductory statement to S. 358 an indication of interest in restoring immigrant eligibility for low-skilled and "unskilled" immigrant workers in certified labor shortage occupations. By separating out the intermediate category suggested above for managers, executives, prominent business persons, and specialized knowledge personnel, we believe the ground is laid to retain the current 6th preference category for skilled and unskilled workers. Retaining immigrant eligibility for low-skilled and unskilled workers recognizes the actual existence of personnel shortages in a variety of occupations, ranging from the most highly educated to the relatively low-skilled, and the importance of each type of worker to the U.S. economy.

We are mindful of the Committee's interest in and scrupulous regard for the immigration law's labor protection principles. However, we believe that the immigration law's purpose of protecting American labor against an unnecessary influx of foreign labor is satisfied by the permanent labor certification process and, ultimately, by the relatively low number of immigrant employees permitted admission.

The Business Immigration Coalition recommends the establishment of employer-sponsored immigrant categories and the annual allocation of visas as follows:

> **50,000 for professionals and exceptional ability aliens** (revised 3rd preference) amended to include aliens of exceptional ability in business and education as well as in the arts and sciences;
>
> **40,000 for managers, executives, prominent business persons and specialized knowledge personnel** (new intermediate category), plus the unused visas from the preceding category, to elevate the immigration priority of senior and highly skilled business personnel who cannot qualify as professionals; and
>
> **30,000 for skilled and unskilled workers** (present 6th preference), plus unused visas from the two preceding categories, to permit continued immigration of needed personnel at various levels and among various industries.

As noted above, we also strongly recommend that the visas unused in each of these categories "spill down" to the next level category. This would ensure that the most needed and most uniquely qualified individuals are given the highest immigrant priority immediately, while providing for reduction or elimination of backlogs in all employer-sponsored categories in the near future.

NON-SPONSORED, "NEW SEED" IMMIGRATION BASED ON MERIT COULD BENEFIT THE NATIONAL INTEREST BUT DOES NOT SATISFY THE IMMEDIATE NEEDS OF U.S. BASED EMPLOYERS

The Business Immigration Coalition supports experimentation with new immigrant programs that would encourage non-sponsored immigration of "new seed" immigrants, where selection is based on training, experience, and skills, such as proposed in S. 358.

While the non-sponsored, "new seed" immigrants do not directly address the needs of U.S. based employers, they could provide indirect benefit to the U.S. economy and U.S. businesses over time. The Business Immigration Coalition maintains that employer-sponsored immigration--by a specific qualified immigrant for a specific job after labor certification--is the best way to determine and fill actual shortages in the U.S. work force. However, we support the trial of non-sponsored "new seed" immigration based on a point system that gives priority based on merit and skills.

THE PERMANENT LABOR CERTIFICATION PROCESS CAN BE STREAMLINED AND MADE MORE EFFICIENT WHILE MORE SUBSTANTIAL IMPROVEMENTS ARE STUDIED

The members of the Business Immigration Coalition appreciate the attention of the Committee to revising the procedures for permanent labor certification. That is, the process by which the labor market is tested for the availability of qualified U.S. workers and the potential adverse effect of an immigrant employee. Without having to make this test of the labor market any less rigorous, we agree that the process is ripe for both short-term and longer-term improvement, resulting in "more simplified and expeditious processing of labor certification."

Anyone involved in the permanent labor certification process cannot help but be dismayed over the significant expense to the taxpayer and to the private parties involved and the significant expenditure of time, for a program that ultimately approves close to 90% of the applications filed. We would like to work with the Committee to continue the progress made in the last Congress to revise the labor certification requirements and procedures.

We support the Labor Department's use of labor market statistics without reference to a specific job, particularly where their use will result in more prompt and efficient *approval* of labor certifications. Where the use of labor market statistics without reference to the specific job would result in *denial* of certification, however, we believe the employer should have the option to seek individual labor certification with an individual test of the labor market, as under current law. In most labor certification cases, the prospective employer is acutely aware of labor market conditions and, quite frankly, would rarely seek to pursue this process but for the unavailability of qualified U.S. workers.

While we understand the Committee's interest in streamlining the labor certification process by encouraging the use of national labor market statistics, we cannot support the proposal that an employer must provide evidence "to establish the reasonable possibility that individual labor certification will lead to a different result." We believe this judgment should be left to the employer who must decide to devote the time and expense necessary for individual labor certification. Requiring an employer to *first* prove that an individual labor certification will likely be approved, before the actual individual labor certification process can begin, would be a step in the wrong direction in our opinion. The labor certification program is already weighed down by burdensome requirements and undue delay, and adding a new procedural hurdle will not contribute to the improvement of the process.

In addition to the use of labor market statistics without reference to a specific job, we recommend that the Department of Labor be urged to expand the schedule of precertified occupations in known job shortage fields. Similar determinations are already mandated by the non-sponsored "new seed" immigrant point system, and at least some of the effort in making such determinations could benefit the labor certification portion of the employer-sponsored immigrant process.

We appreciate S. 358's preference for the "national" standard of U.S. worker availability, but we hope the final language of this section will provide adequate direction to the agency. In our view, the scope of recruitment for labor certification should be that which is appropriate to the nature and the location of the position. Under present law, the Labor Department employs this standard, which results in national recruitment in some occupations for jobs in some locales, but does not oblige the prospective employer to conduct national recruitment where it is not warranted. We will recommend some amendment of the language of this section as it was introduced.

Even with the streamlining proposed above, there will exist inefficiencies, irrationalities, and lack of uniformity in the permanent labor certification process. Unfortunately, it is not possible to recommend more comprehensive changes or improvements to the permanent labor certification process without more comprehensive information and analysis. Therefore, we support funding for a comprehensive study of the permanent labor certification program by the Labor Department with input from other relevant departments of the Administration, as well as from the public through open hearings, that would result in proposals to overhaul and further streamline labor certification.

MANDATORY PERIODIC REVIEW OF LEGAL IMMIGRATION WILL ENSURE THE RELEVANCE AND RESPONSIVENESS OF U.S. LAW AND POLICY

The Business Immigration Coalition strongly supports the provisions of S. 358 that provide for an annual review of the social, economic, and environmental impacts of America's immigration laws and policy and triennial review and recommendations on the national levels of immigration. Based on all our past experience, we fully expect our nation's immigration needs and priorities to change in the future. The triennial report and recommendation proposed in S. 358 provides both a mechanism and a forum to ensure that flexibility is maintained and that our law and policy remains responsive to evolving needs and priorities.

Our coalition takes no position at this time on the proposal that presidential recommendations that contain an increase or decrease in the national level of immigration of 5 percent or less would take effect unless Congress objects.

INTEGRATION OF U.S. LAW AND POLICY ON TEMPORARY NONIMMIGRANTS WITH LEGAL IMMIGRATION

Although not specifically addressed in the language of S. 358, the Committee is aware of the interrelation of the temporary nonimmigrant work classifications and permanent legal immigration.

We hope that revision of legal immigration law and policy will be integrated, in the future, with reform of our policies toward business nonimmigrants. The current laws on nonimmigrants are no less outdated than legal immigration, arising as they do from a time when international business contacts tended to be less complex and of shorter duration.

Regretfully, the absence of reform in legal immigration and business nonimmigrant policy has resulted in a number of problems and anomalies.

Those interested in international business are well aware that permanent residence is sometimes sought for an important employee simply because the current nonimmigrant policies will not permit a longer stay. Similarly, the inadequate availability of immigrant visas for international personnel has resulted in the need to seek extensions of temporary, nonimmigrant stays despite approval of labor certification and an immigrant petition for that employee.

The Business Immigration Coalition believes that the increases in employer-sponsored immigration that we recommend above will greatly relieve the pressure to use the temporary nonimmigrant categories when an alien employee is qualified for permanent residence. While this will solve some of the current problems, there remain a number of unnecessary barriers to the admission of business nonimmigrants that deserve this Committee's attention.

L-1 Intracompany Transferee Category

Over the last two decades, since the original enactment of the L-1 category, §101(a)(15)(L) of the Act, the Immigration Service has slowly drifted away from the original congressional intention with regard to that category. Instead of promulgating rules to expedite and streamline the international transfer of personnel by multinational companies, the INS has increasingly placed regulatory impediments in the way of such transfers, through overly rigorous definitions covering qualified personnel who are eligible for transfer. By incorporating into the immigration law commonly understood business definitions of types of employees and business entities, as used by other regulatory agencies with direct responsibility for business oversight such as the Security and Exchange Commission, Congress can quickly and efficiently return the L-1 intracompany transferee provision to the parameters originally intended by Congress.

In particular, the Act needs to be amended to include definitions covering the types of international personnel who are eligible for transfer by multinational companies, given the originally expressed congressional intent to provide for transfers of all key personnel considered necessary by international firms, including personnel targeted for career advancement. It is the view of the Business Immigration Coalition that the terms currently in use -- managerial, executive, and specialized knowledge -- do not adequately reflect current business realities. In particular, most supervisory personnel are not divided into distinct managerial and executive categories, which have become redundant under current business organization. The Business Immigration Coalition advocates realignment of the qualifying personnel to cover managers, specialized knowledge personnel, and professionals.

Professionals should be defined pursuant to standards for the H-1 category, as currently implemented by Immigration Service rules and decisional law. With regard to specialized knowledge, the definition should emphasize that this knowledge is not limited to "proprietary knowledge" closely held by the company, but includes instead professional knowledge that is pertinent to the organization, such as knowledge of the business entity, its products, its processes, and procedures. The definition must also cover knowledge that will enhance the "cross-fertilization" of ideas within the international organization, as stated in the original congressional report on the L-1 legislation in 1970.

With regard to managerial personnel, the definition must clarify that personnel-type duties (hiring/firing decision making, etc.) are not required, nor must a set percentage of time be devoted to "managerial" duties.

The key element in defining a manager is where the position fits within the employer's business organization. The manager can have a *functional* responsibility within the company, even without direct supervision of personnel. Many managers routinely perform a mix of professional and managerial duties, but the hallmark of a manager's responsibilities is the exercise of discretion in corporate policy or decisionmaking. The amended law must also establish that mid-level managers targeted by their employers for career development training are suitable candidates for international transfers. Other relevant factors include compensation level, total size and staffing levels of the company, and the nature and complexity of the company.

The Business Immigration Coalition would be pleased to work with the staff of this subcommittee to develop appropriate statutory language that coincides with the congressional intent in enacting the L-1 category. Proper definition of the key statutory terms would be among the most significant amendments to the Act that this subcommittee could make to ease the present problems of the business community in making personnel decisions involving international personnel.

H-1 Temporary Worker Category

The H-1 category has been a controversial one, but the immigration statutes dating back to 1924 have always provided nonimmigrant entry for professionals. The Business Immigration Coalition can provide the subcommittee with a detailed analysis of past practice with the H-1 category to demonstrate legislative intent and administrative practice. Not only does past practice and legislative intent endorse the current scope of the H-1 provision; the limited numbers admitted in the H-1 category, particularly as professional as opposed to entertainers, are so minuscule that they could not conceivably have an impact on U.S. employment. Looking to policy considerations for the future, many labor market studies indicate that the United States faces continuing and increasing shortages in many professional occupations.

The business coalition goals with regard to the H-1 category are to obtain a definitive statutory statement of the groups included in the H-1 category and a statutory recognition that a person can establish himself or herself as a member of the professions through education *or* experience, or a combination of the two. The efficiency bill of the last Congress contains the essence of the 1986 business proposal to further these goals. Also important is a solid legislative history to give guidance to the INS in application of the standard for determining when a person can be classified as a member of the professions.

The business coalition believes that Congress can go even further in clarifying the uses of this category by taking two simple steps. First, Congress can consider separating the current coverage of the H-1 category into two groups: H-1A for entertainers and H-1B for professionals and other persons of distinguished merit and ability. Much confusion has arisen in recent years regarding the proper standards for admission in the H-1 category because essentially different standards apply to entertainers and other persons included in the category such as professionals. Separating the two groups could clarify which standards apply to each group and could permit special procedures to be maintained with regard to entertainers that address the legitimate concerns of U.S. entertainment labor groups.

Second, Congress can move towards a schedule of predetermined professional occupations with specified minimum entry standards, such as has been included in the U.S.-Canada Free Trade Agreement for Canadian professionals entering the United States. This salutary idea with regard to professional occupations for which entry-level credentials are clearly established would provide for "preapproved" petitions for employers to bring such professionals to the United States. The scheduling approach for H-1 classification in clearly professional fields would save the INS an enormous amount of adjudication time and financial resources that could be devoted to many of its other important tasks. A congressionally-approved schedule similar to the FTA schedule is one alternative, but a clear congressional mandate to the INS to create such a schedule administratively within the confines of §214(d) would also be acceptable.

The Business Immigration Coalition makes the following specific proposals. First, the coalition seeks the clarification of the original congressional intention regarding the H-1 category standard of "distinguished merit and ability," by explicitly including a person who is "a member of a profession or a prominent business person and is coming temporarily to the United States to perform services in such profession or as such an executive." A "prominent" business person has been defined suitably in a proposed INS definition for such personnel; congressional endorsement of this definition would be useful.

We also recommend addition to the definition included in the Act of a member of the professions: "An individual is considered to be a member of a profession if the individual has an appropriate degree in the respective specialized field from a college or university *or* has significant experience in the particular field (as determined under regulations issued by the Attorney General)."

The coalition also recommends that Congress establish a legislative record that "significant experience" is to be calculated on a ratio of one year of professional experience being the equivalent of one year of education, *with no minimum educational requirements in the field*. The one-to-one ratio is less than the INS proposes (three-to-one) but is more conservative than the U.S. Civil Service's standard, which equates one year of experience to two years of education. It is also important to establish a record that a degree not related to the specific occupational field plus four years of professional experience in the field is also sufficient to document significant experience without specific education in the field. The business coalition also requests Congress to establish a record that a person without any appropriate educational background in the field can still establish "significant experience" equivalent to professional credentials. It should be noted that the need for this type of dispensation in defining professional status will become less important after the next ten to fifteen years, as the era of self-starting, liberal arts business professionals draws to an end and the full impact of early professional specialization in education comes to fruition. The legislative record should also note that education in one business subspecialty, plus appropriate experience in another subspecialty, can document a person as a professional in the second subspecialty, despite narrowly-construed INS cases to the contrary. Note that any employee promoted into management normally become further removed from his or her original business specialty. The congressional record could also endorse the INS proposed rules on the subject of prominent business persons without appropriate college degrees. Prominence is the standard for determining "distinguished merit and ability" for H-1 classification when entry-level professional credentials are lacking or a nonprofessional position is involved.

Review of Consular Decisions

Currently the State Department provides no formal administrative review of consular denials of immigrant or nonimmigrant visas. This situation creates many examples of hardship. In the corporate setting, an employee may have obtained a change of nonimmigrant status to the H-1 category in the United States and have worked for the employer for a year or more, but be denied an H-1 visa to reenter the United States upon traveling abroad. Therefore, in the middle of his or her assignment, and without any warning to the company, the alien's assignment can be cut short. In view of the potential for hardship, a formal administrative appeal procedure must be provided in the Act. This change probably requires amendment to §104(a)(1), which has been interpreted to deny to the Secretary of State any role in the granting or refusal of visas, a role assigned exclusively to consular officers.

We look forward to exploring with the Committee our concerns over policy toward business nonimmigrants and working at congressional or administrative solutions to the problems now encountered. The business immigration community needs flexible nonimmigrant definitions that reflect contemporary business realities. We believe that eligibility requirements can be agreed upon that will provide objective criteria and easy-to-decide standards for the vast majority of cases without sacrificing flexibility for the small number of novel or unique special situations.

SEVERAL EFFICIENCY AND TECHNICAL IMPROVEMENTS WOULD FURTHER REDUCE UNNECESSARY BARRIERS TO BUSINESS IMMIGRATION

The Business Immigration Coalition has also identified a number of technical and efficiency-type improvements to U.S. immigration law and policy that would advance U.S. economic development by removing unnecessary barriers to business immigration. Highly technical and relating largely to the nonimmigrant classifications, these matters are not addressed by the present legal immigration reform bills. However, we believe that congressional review of a number of technical subjects is overdue, and we have taken the liberty of appending to this statement a more comprehensive listing of these concerns.

We look forward to working with the Committee in the future on these matters. The relevant agencies will greatly benefit from the guidance of statements or reiterations of congressional intent, as well as from statutory technical changes. We believe these improvements will alleviate unnecessary obstacles and inconveniences to many international businesses.

CONCLUSION

In conclusion, I am pleased to be able to provide these collective views on the impact of U.S. immigration law and policy on U.S. based business enterprises. We are optimistic that the Business Immigration Coalition will continue to be an active participant and, we hope, a valuable resource in the development of balanced immigration reform in the national interest.

We are pleased that Senators Kennedy and Simpson have continued the process of legal immigration reform by reintroducing S. 358 and by seeking our views and the views of others at this hearing.

We submit that the interests of U.S. employers will best be served by legal immigration reform that provides adequate attention and resources to employer-sponsored immigration. In our view, these changes should include increased allocation of permanent visas to employer-sponsored immigrants; retention of the present employer-sponsored immigrant categories with revisions to better reflect business needs and priorities; and a preliminary streamlining of the permanent labor certification process while more comprehensive recommendations are developed.

Our statement is a simple one: Let business work efficiently and productively in the multinational market. We need our laws to support our competitive products and services. We are not asking for favors or anything that takes away from anyone else; we merely want to be able to work with the law as a partner, not an adversary.

I thank you again for the opportunity to present the views of the Business Immigration Coalition. I welcome any questions you may have now or in the future pertaining to business immigration.

3LE315.1

EFFICIENCY BILL PROPOSALS OF THE BUSINESS IMMIGRATION COALITION

APPENDIX TO
STATEMENT OF FRANK D. KITTREDGE
PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL

CONCERNING
LEGAL IMMIGRATION REFORM
"THE IMMIGRATION ACT OF 1989," S. 358

Efficiency Bill Proposals of the Business Immigration Coalition

The Immigration and Nationality Act could be made more effective immediately, apart from efforts to revamp the immigration selection system, by passage of efficiency amendments that are essentially technical in nature but would have a dramatic impact on the implementation of the Act by the Immigration and Naturalization Service. The efficiency package of amendments advocated by the Business Immigration Coalition is noncontroversial, with many of the following proposals having been included in past efficiency bills passed by the House of Representatives in the last two Congresses. Many of the proposals have also been endorsed by the INS, congressional committees, and research institutes and government commissions.

While these provisions may be noncontroversial, they are extremely important to the business community. In many respects, passage of an efficiency package of amendments would have a more dramatic impact on the day-to-day ability of business to function under the immigration laws than would legal immigration reform. Ultimately, business makes far less use of the immigration selection system than it does of nonimmigrant categories, since most transfers or initial hirings of personnel for placement in the United States are intended strictly to be temporary in nature. Business primarily hires foreign nationals for eventual placement with foreign operations, and only secondarily to fill shortages in the United States labor market. While the importance of legal immigration reform should not be belittled, Congress can make a dramatic and immediate difference to the functioning of business under the immigration laws by the passage of this noncontroversial package of efficiency amendments.

The immigration efficiency bill first passed in the 99th Congress by the House of Representatives, and passed by the House in modified form in the 100th Congress, is an excellent basis for a new efficiency package. Many of the provisions in those efficiency bills were advocated originally by one of the Coalition's members, the American Council on International Personnel, before the House immigration subcommittee in 1986. The Business Immigration Coalition proposal for the 101st Congress incorporates many of the efficiency bill proposals from the last two Congresses as a starting point, and in addition recommends the inclusion of several other features important to the business community. The following proposals are listed in the order of their priority.

1. E treaty trader and investor category

The Business Immigration Coalition has two goals with regard to the present E category for nonimmigrant investors and traders, § 101(a)(15)(E) of the Act: (1) expansion of the category to provide treaty-type benefits to nontreaty country nationals; and (2) better definition of the category to eliminate restrictive interpretations of "trade," the types of employees who can be granted E status, and the type of financial transactions that should be considered a part of an investment.

With regard to expanding access to the E category, it should be noted that liberal benefits to foreign nationals seeking to engage in trade with or investment in the United States is beneficial to the U.S. economy and enhances employment. By liberalizing benefits, the United States also encourages other countries to provide reciprocal benefits. A proposal to expand the current E category to cover nontreaty countries has been passed by the House of Representatives in the last two Congresses. Its adoption by Congress this year would be a tremendous boon to the U.S. economy that would contribute to sustained economic growth as efforts are made to trim deficit spending and make other financial changes in the U.S. economic scene.

The Business Immigration Coalition therefore advocates that this subcommittee adopt the language of earlier efficiency bills with regard to expansion of the E category. Under the prior efficiency bill, a new E subcategory is created for nontreaty traders and investors engaging in "substantial" trading or investment activity. Investors are required to employ five U.S. workers and invest a "substantial" amount, with "substantial" defined as "such an amount of capital, trade, services, or transfers of technology" as is established by the Secretary of State, after consultation with the U.S. Trade Representative and the Secretary of Commerce." The legislative history should indicate that the amount of investment sufficient for the particular type of business is the key element of substantiality; the employment of a minimum number of U.S. workers is the real safeguard against marginal investments. The bill also calls for a study two years after enactment to determine the impact of admission of nontreaty E's, including the extent to which reciprocal benefits have been extended to U.S. citizens. The bill also redefines trade to include "services or transfer of technology," and covers personnel that is "supervisory or executive or involves specialized knowledge."

2. J exchange visitor category

The Business Immigration Coalition has set a high priority to establish a realistic time period for business training under the exchange visitor programs monitored by the U.S. Information Agency, § 101(a)(15)(J) of the Act, and to create a legislative record strongly reaffirming the role of business training in cultural exchange. The Coalition can cite many examples of international businesses that have been unable to extend needed training to foreign employees of joint venture companies because the current exchange visitor program rules limit business training to eighteen months. This restriction has hampered the operation of these joint venture enterprises, to the detriment of U.S. economic interests. Many businesses have documented a need for training programs lasting two years, and in some cases longer. A two-year limit on exchange visitor training is a far more realistic standard, while the opportunity for a third year of training should be available to businesses that can document the need for such training.

With regard to the legislative goal of furthering international cultural exchange through the exchange visitor programs, Congress should note that the USIA has drifted away from this original congressional intent by raising doubts that business training furthers cultural exchange. The USIA should encourage U.S.-owned companies to staff their operations abroad with persons who have undertaken training in the United States and are therefore familiar with American techniques, standards, and values. The ultimate benefit to American interests and the interest of international understanding and cultural exchange should be manifest. A strong congressional statement of support for business training as a form of cultural exchange would be a significant step toward furthering U.S. business interests on an international basis.

3. Use of Schedule A for labor certification determinations

The Department of Labor has lobbied intensively in past years to obtain a streamlining of labor certification procedures, § 212(a)(14) of the Act, through a congressional mandate to create schedules of certifiable and noncertifiable occupations that would eliminate the need to conduct individual labor certification procedures with regard to the actual offer of employment to an alien. The issue of labor certification amendment is a complicated one that is rightly addressed through reform of the entire legal immigration system.

The capacity of the Department of Labor to schedule certifiable occupations, however, already exists under Schedule A of the DOL regulations, a schedule that the DOL currently uses only rarely. The DOL needs to be encouraged by Congress to make more extensive use of

Schedule A, which provides blanket certification for shortage occupations on a national basis, and also to create lists of certifiable occupations on a regional or geographically more limited basis. Schedules should only be used with regard to documented shortages of U.S. workers. In all other cases the employer must maintain the right to demonstrate that qualified U.S. workers are unavailable for the position being offered.

Congressional encouragement for DOL use of Schedule A can be linked to a requirement that Schedule A be updated and reviewed by the DOL on a regular basis, with the results of the review process reported to Congress on a biennial basis. This simple step can streamline labor certification procedure and benefit both employers and the DOL without harming the U.S. labor market and without more drastic and controversial amendment of the labor certification provision of the law.

4. F-1 practical training category

Under current INS regulations, foreign students under § 101(a)(15)(F) of the Act are appropriately given the opportunity to engage in a brief period of practical training upon completion of their university education and in furtherance of their educational goals. The INS, however, needlessly expends its limited adjudication resources in ruling on practical training applications from students, when foreign student advisors at accredited schools and universities are the most qualified individuals to determine whether such training would be beneficial and is in furtherance of the student's educational objectives.

The foreign student advisors as a whole have long proved themselves to be a conscientious and cautious group of individuals in whom the INS has often vested responsbility for policing many aspects of its rules regarding foreign students. With regard to authorization for practical training, the INS ought to be directed to take its current rules one step further to streamline the procedure for obtaining such training for F-1 students. The method for granting practical training to students in the J-1 category is instructive. In the latter category, practical training for the full period available is approved by the program sponsor without the need to apply to the INS, which has the authority to review training decisions or make post hoc determinations regarding the validity of a grant of training. Doing away with the need for an application to the INS would permit the INS to engage in less adjudications and reallocate scarce resources.

Therefore, the subcommittee should consider adding a provision to the Act with regard to F-1 students permitting the grant of up to one year of post-graduation practical training authorized by the foreign student advisor, with appropriate reports to be filed by the school with the INS, and with the option for the student to apply for practical training to the INS if the foreign student advisor at his or her school refuses to authorize training. This proposal benefits foreign students, eliminates unnecessary paperwork, and provides greater certainty to employers who provide training that students will be available for the full period of training without a subsequent INS determination that training is inappropriate and must be terminated.

5. H-3 trainee category

The H-3 nonimmigrant category, § 101(a)(15)(H) of the Act, is set aside for business trainees. Apart from establishing the category, the Act does little to define its terms, and into this void the INS has stepped with regulations so restrictive that the category has become virtually useless to businesses with a need or desire to provide training to foreign nationals. The Business Immigration Coalition has two goals with regard to the H-3 category: (1) to change restrictions on the length of a training program to conform the category to business realities; and (2) to replace the current INS criteria for an acceptable training program, which few employers can meet, substituting a simple requirement that the training be conducted pursuant to an established, formal occupational training program.

With regard to the latter goal, the legislative record must reflect that the requirement of a formal occupational training program replaces, and does not merely supplement, the current INS criteria. It must also specify that an educational-type program is not required in order for training to be legitimate; occupational training can include closely supervised on-the-job training as long as it does not displace a U.S. worker, i.e., the trainee is supplemental to the normal work force and another worker would not need to be hired if the trainee was not available. A program customized for a single individual is acceptable as long as it does not displace a U.S. worker.

6. Reentry Permits

Reentry permits under § 223 of the Act can be a useful document for permanent residents who are assigned abroad by their U.S. employers. They allow extended absences while preserving the permanent resident's right to reenter the United States without reapplying for a new immigrant visa. They do not create a presumption, however, that the permanent resident has maintained his or her residence in the United States during extended absences. Also, they do not preserve the continuity of the permanent resident's residence for naturalization purposes, which requires a separate application, a confusing procedure for many permanent residents assigned abroad for lengthy periods.

The Business Immigration Coalition's goals with regard to reentry permits are: (1) to extend the period of their validity, as in the previous versions of the efficiency bill, to five years from the current two-year validity period; (2) to add to the efficiency bill the clarification that a reentry permit establishes a rebuttable presumption of continued residence; (3) to extend the reentry permit's purpose to cover preservation of the continuity of residence for naturalization purposes during the period of the permit's validity; and (4) to eliminate the prerequisite imposed on persons applying for continuity of residence benefits that they have been physically present for a continuous period of one year after commencement of permanent resident status in order to be eligible to apply for those benefits. Currently, even a single day's absence from the United States during that one-year period bars the resident from receiving continuity of residence benefits, making such benefits virtually unattainable for most highly-mobile business persons.

7. **B-1 business visitor category**

The Business Immigration Coalition has two goals for this category: (1) to make certain that the category is defined broadly enough to include legitimate short-term business entries without some of the complicated caselaw tests currently in use; and (2) to stop the category's use as the "catch-all" category of last resort for the INS and State Department when they can find no other appropriate category for a legitimate nonimmigrant entry. The use of the category as a "catch-all" has led to judicial actions and other criticism that inevitably affect some of the legitimate business uses of the category. Most significantly, negativism toward B-1 applicants by both INS and consular officers is commonly experienced, and could be eliminated by explicit demarcation of the category's limits.

We therefore propose that Congress divide the current coverage of § 101(a)(15)(B) into two subparts covering business visitors and visitors for pleasure, and with regard to business visitors eliminate the reference to "coming for the purpose . . . of performing skilled or unskilled labor," which is too ambiguous. This statutory phrase should be replaced with a specific bar on receiving a salary from a U.S. source combined with a new criterion for admission: entry "in furtherance of or pursuant to international trade or commerce." This change eliminates the unproductive endeavor of trying to determine when B-1 activities are "local employment for hire" and places proper emphasis on the connection of the activity to international trade and commerce. At the same time, the U.S. labor market is protected by the bar on receiving a U.S. salary; note that the legislative history should indicate that non-salary forms of remuneration, such as reimbursement for expenses and per diems, are acceptable. The legislative history should also contain specific, but non-exclusive, illustrations of appropriate activities in the B-1 category, which can be derived in large measure from the existing State Department and INS instructions on this issue.

We also recommend that Congress create a new nonimmigrant category for aliens with legitimate reasons for temporary entry who do not fit within any other category, to be defined pursuant to regulations issued jointly by the Attorney General and Secretary of State. This category might be a subpart of the B category, e.g., a B-3 category. Its creation will eliminate confusion with the standards for business-related visits.

8. Naturalization

a. Accrual of Time Working Abroad for U.S. Firm to Meet Naturalization Time Requirements

When a permanent resident is assigned abroad to work for a U.S. firm engaged in the expansion of commerce or trade, those periods should be counted toward the minimum residence requirements for naturalization purposes. There is precedent for this type of provision in other naturalization provisions. This proposal benefits the business community by expediting the naturalization of some key international employees.

b. Reduction of all residence requirements to three years

Another change that would expedite the naturalization of key employees is the reduction of the naturalization residence requirements to three years, the current standard for spouses of U.S. citizens. The INS made this suggestion as part of its legal immigration proposals issued last year. The proposal encourages permanent residents to become U.S. citizens and participate in our political system. Shortening the time before which key employees can travel as U.S. citizens benefits major employers.

9. Nonimmigrant Procedures

Congress could make several technical changes to the current statutory procedures with regard to the nonimmigrant categories that would have a substantial impact on the ease and certainty with which business can address its immigration problems.

a. Employment authorization during pendency of change of status applications

The INS has taken the position that an alien cannot commence employment with an employer until a change of status application is approved in conjunction with the employer's petition. Incredibly, the INS has also held that an alien cannot continue employment with the same employer when he or she needs to change nonimmigrant categories and therefore technically needs approval of a change of status application, e.g., change from F-1 practical training to H-1. This holding makes no sense and subjects employers to potential hardships if they choose to temporarily suspend employment, or to potential employer sanctions if they continue to employ the aliens. This situation should be remedied by Congress. The appropriate change can be made by adding statutory language to § 248 of the Act permitting continuation of employment during pendency of a change of status application when the prior status and the requested status are with the same employer.

b. Appeals

The INS has removed the right to appeal the extension of L-1 stay through technicalities in its procedure for obtaining such an extension. It proposes to do the same for the H-1 category. To obtain review of a denial under the INS procedure, the employee must file a motion to reopen the denial supported by evidence from the employer, or the employer must file an entirely new L-1 or H-1 petition with the INS. In either event, there is no guarantee that the employee can remain in the United States pending further INS review. The right to appeal denials of extensions is even more important in many respects than the right to appeal denials of initial petitions, because in extension cases the employee has already been transferred to the United States at great cost to the employer. The Business Immigration Coalition therefore recommends that the subcommittee add a statutory right to an administrative appeal of a denial of the extension of stay of an H or L nonimmigrant.

10. Elimination of Reentry Doctrine

Versions of the efficiency bill passed by the House in the last two Congresses contained the elimination of the reentry doctrine, which mandates that each reentry from abroad by permanent residents and other aliens constitutes a completely new application for admission to the United States. This doctrine can create significant hardship to permanent residents, who are thereby subject to the grounds for exclusion upon return from each trip abroad. It also slows their reentry after business and pleasure trips abroad. The Business Immigration Coalition supports elimination of this doctrine as a matter of equity and efficiency.

NATIONAL FOREIGN TRADE COUNCIL, INC.
1625 K STREET, N.W., WASHINGTON, DC 20006 (202) 887-0278

May 1, 1989

Honorable Edward M. Kennedy
United States Senate
Washington, D. C. 20510-6275

Dear Senator Kennedy:

Thank you for your letter enclosing an additional question regarding the testimony of the Business Immigration Coalition. The question was:

> "HOW CAN WE BE CERTAIN THAT INCREASED EMPLOYMENT-BASED IMMIGRATION WON'T BE USED TO AVOID THE NEED TO INVEST IN OUR OWN LABOR FORCE?"

You have raised an issue which is of equal concern to business organizations in general, and to the members of the Business Immigration Coalition in particular.

Many of our member companies are faced with the problems of effectively introducing into their work environment minority groups who may not have the required level of education, skills and motivation to be productively employed. These companies have made serious efforts toward cooperating with their local commnities, and more specifically have developed and utilized programs of their own for appropriate orientation and training, even to cover very basic skills. For more sophisticated and technical requirements, a number of corporations have provided funds and equipment to assist universities and other schools to help meet their requirements.

While many companies have been concerned and actively involved in improving the local workforce, our member companies also face the pressures of competing internationally. These companies need selected, talented personnel with international experience and exposure to succeed. The individuals they seek to bring to the U.S. to meet these requirements are generally of what are termed the "managerial, executive or specialized knowledge" categories. Their transfers to U.S. operations, which are indeed costly, are considered very carefully by the companies involved, particularly whether the desired skills are available in the U.S. labor force. Their employment in the U.S. operations leads directly to the growth and international competitiveness of the U.S. company operations, thus preserving and enhancing overall job opportunities.

The number of visas involved in this employment category is quite small when compared to the Department of Labor's anticipated shortfall of labor in the next ten years. If we use current data, less than half of the visas issued annually is for employees; the remainder being for accompanying dependents. Accordingly, the requested increase in employment-related immigrant visas of 65,000 only involves about 30,000 positions.

Employment based immigration is not a way to circumvent going to the U.S. labor market. Any immigrant with a job offer must meet the labor certification procedures which are designed and implemented to protect the U.S. labor force. The process scrutinizes the U.S. labor market and requires significant time and money to complete in accordance with applicable regulations.

Finally, our companies believe there is a need to enrich our population with valuable ideas, techniques, perspectives and successes wherever these are developed, and not limited to those found in the U.S. An effective way to do this is to enable those organizations with international assets to transfer highly talented and successful managers into the U.S. efficiently and productively.

I hope that these comments adequately respond to your question and related concerns.

Sincerely,

Frank D. Kittredge
President

Senator SIMON. Thank you, Mr. Kittredge.

One of the things that is part of this bill is a 20-point preference for English, which balances out any educational attainment, engineer or something like that. You mentioned getting a German engineer.

Is the point preference which gives so much preference to the language skill rather than to the professional skill—does that make sense?

Mr. KITTREDGE. Well, I would let Mr. Copeland make a comment on that, but I would make one comment that in the multinational world of today English has become more and more the language of our people, of the working people that are involved, and language in that case is almost usually English. But I would let Mr. Copeland also make a comment.

Mr. COPELAND. Senator Simon, in the context of the point system, that is related to the independent immigrants that really are very only indirectly meeting any business need.

Our needs to bring people in would not come out of that pool, except after they have already arrived and are in the general population. Our needs are for specific people with our technology to come in. They generally have adequate language skills, and where they don't, we will provide the training necessary for them to participate at whatever level they need to be in before they come to the United States or subsequent to their arrival.

Senator SIMON. Let me ask both of you. Both bills have an incentive for investors to come here. Does that make sense?

Mr. KITTREDGE. Well, again, I think I would comment that with the current status of multinational activities, yes, investment often accompanies that kind of activity.

Senator SIMON. I understand my colleague has to leave. I am going to defer further questions for Senator Simpson here.

Senator SIMPSON. Mr. Chairman, you are very kind. I appreciate that. It must have been the staff telling you that instead of me; I hadn't been aware of that. [Laughter.]

No, that is not true. I do appreciate that, Paul.

Let me ask Ms. Munoz, you criticize the effect that the Kennedy-Simpson bill would have on Mexico, and yet isn't it so that this proposed bill locks in Mexico at a higher rate of immigration than any other country in the world?

Ms. MUNOZ. Mexico may have a higher rate of immigration than any other country in the world. However, what the bill does, essentially, if I can refer to the bar charts brought by the GAO, is raise the level of immigration of immediate family members of U.S. citizens at the expense of the other family categories which Mexico also utilizes.

We are not opposed to the idea of allowing people from other countries to come into the United States. We are simply contending that it shouldn't be at the expense of family-sponsored immigration.

Senator SIMPSON. But under the bill, Mexico would always receive more visas than any other country in the world, 45,000 immediate-relative visas, plus the available preference visas; the Philippines, 38,000 immediate-relative visas. No other country would receive over 20,000 immediate-relative visas.

Is it not true that more Mexicans immigrated in 1987 than did people from all of Europe?

Ms. MUNOZ. It may very well be true. I am not familiar with the data. But, again, the point is not so much the number of Mexicans who come in, but who those particular people are. What this bill would do is limit those people only to the immediate family members of U.S. citizens.

Senator SIMPSON. But we have to deal with, you know—I understand what you are saying, but in 1987, 72,000 came from Mexico and 61,000 from all of Europe. And it is true under this proposed legislation that Mexico will receive the same number of immediate-relative visas and approximately 5,900 more preference visas. That is what this bill is.

Ms. MUNOZ. If you look at something mentioned by the Select Commission, the fact is we have a contiguous border with Mexico and, in fact, 14 percent of the land mass of the lower 48 used to be Mexico. That implies a certain kind of connection which has been traditional in this country and which we think is a benefit.

The fact is, because of the contiguous border, levels of immigration from Mexico are likely to be higher than from other parts of the world. Again, we don't think that is a detriment; we think it is a benefit.

As the Select Commission mentions, unless legal immigration addresses that demographic reality, the likelihood is that that demand will be met in other ways, potentially by illegal immigration. And we would hate to see the enactment of a legal policy which perhaps encourages illegal immigration.

Senator SIMPSON. Yes, but you see, our job as a sovereign country is to determine who comes, just as it is Mexico's sovereign duty, and that is why they have work permits and ID cards and a lot of things that we don't have in the United States of America. They have those in the United States of Mexico.

And then we have another neighbor on our northern border and we once proposed to take numbers from them to give to Mexico. We have recognized historically forever, at least in commonsense ways, this remarkable relationship. So, you know, it isn't so to say in any way that we don't. You wonder sometimes how the northern neighbor feels when we give the advantage to the southern one.

But I really must strongly object to the statement in your testimony which alleges that there is an inflexible cap in the Kennedy-Simpson bill. This bill sets a national level of immigration. That level may be exceeded if immediate-relative immigration exceeds 440,000 persons per year. Immediate relatives are not now or under the bill numerically limited at all. People don't seem to understand that; we have to keep revisiting it. In addition, the President and Congress may increase the level by whatever amount they desire every 3 years under expedited procedures.

Now, those are specific examples of the bill's flexibility. You do recall those items in the bill?

Ms. MUNOZ. In fact, I do. What is inflexible and what we have a problem with is what the levels of immigration of the family members of U.S. citizens from countries like Mexico and the Philippines means in terms of its effect on the rest of family-sponsored immigration.

And while those levels are not numerically limited, what happens when they exceed a certain point is that they affect immigration from every other category. That is what we object to.

Senator Simpson. I thank you. Now, if I might, Ms. Yee. The fifth preference is a tough one. We know that; we have been in it so long, and we know what it is. We know what it means. We know not only the symbolism of it, but the reality of it.

We know that sometimes U.S. citizens bring in 30, 40, 50 derivative relatives under the preferences one U.S. citizenship. We know the reality of that, too. Under current immigration law, it would now take a new applicant from a typical country 20 years to immigrate under the fifth preference.

From an over-subscribed country like China or India or Korea or Mexico or the Philippines or Hong Kong, the wait in the fifth preference is even longer than 20 years. So, how does such a preference even serve the interests of the Asian community or any other community? Why is there such an obsession with preserving what is really nothing more than a phantom preference, which may even have phantom members in it?

We don't even know who is left. We don't know how many have died; we don't know how many came illegally. Certainly, if a person were that interested, they surely wouldn't wait that long to reunite. So, what is the obsession with preserving the phantom preference?

Ms. Yee. Well, Senator Simpson, I certainly wouldn't call the fifth preference an obsession. It is a legitimate preference category that is being utilized at its maximum level annually. Sixty-four thousand eight hundred visas are used every year. The fifth preference category is certainly in existence and people are utilizing it.

When immigrants decide to apply under the fifth preference, especially in Asia, they recognize that it is going to be a long wait, for many, as long as 15 to 20 years.

And so these immigrants ask themselves, Do we really want to come to America? Many of them decide that they do want to come to this country. In essence, they are willing to continue living their lives in the Asian country, and then when their time arrives, they will look forward to legally entering this country.

Furthermore, the never-married restriction on fifth preference immigrants contained in Senate bill 358 is unnecessary and restricts the lives of these people. Under current law, the waits are gradually increasing, while under Senate bill 358, as the GAO has just shown us, the waits will increase to an incredible 75 years.

Clearly, the fifth preference will eventually cease to exist under Senate bill 358. Again, under current law, the fifth preference category is utilized by 64,800 people per year. OCA has suggested that a study be conducted to actually see who and where those people are that have applied and are waiting under fifth preference. Where are those people? Are they still alive? Do they still want to enter this country?

If we can prove, say, that 90 percent of fifth preference petitioners are no longer alive, then we should consider limiting the preference. However, existing data is limited, and no study has ever addressed these questions pertaining to the fifth preference.

Senator SIMPSON. I realize that, and my question really is not directed to people who have applied under the fifth preference in 1982 who are now entering. What is the interest today for an applicant who would have to wait 20 years?

My time is limited, but there is a limited number of visas that the United States can grant, and that is the way it is. And there are more spouses and children of immigrants than there are available visas, which is the way it is.

And then I am puzzled why you continue to support so totally using some of those very limited visas, which they are, to bring in brothers and sisters, brothers-in-law and sisters-in-law and nieces and nephews instead of giving it to spouses and children—thus in this process making spouses and children wait ever longer for those limited visas.

Ms. YEE. In Asian countries, the concept of the nuclear family includes family members beyond immediate relatives.

Many Americans of Asian ancestry believe that reuniting brothers and sisters is extremely important. Indeed, in Asian culture and in the Asian Pacific American community, this bond is treasured and held in high esteem. The Asian Pacific American community wants the fifth preference category left intact.

Senator SIMPSON. Well, my time has flitted, but, again, just one final matter. You mention in your testimony that brothers and sisters in America and China have suffered greatly from being separated from each other; "with little hope of being united," is your quote.

And yet, it is the sibling who emigrated who caused the separation. I am not trying to be wringy; I am trying to be honest as to what is happening here. And when somebody comes and uses the legal immigration systems of the United States for 30, 40, or 50 relatives who are not spouses and children, who are not the people that we think of when reuniting a nuclear family—then, you see, those are realities.

You know, when the Soviets suddenly open the door and say, here you are, you have cried about this for a long time, here is a million, and when the Chinese in the People's Republic say, here is a million, you see, it is no longer an issue of saying, "let your people go."

The duty of a nation is to determine who comes. We have always done that, and that is the reality of the tough situation that we have here. I just want to leave it at that, and I will submit the balance of my questions to Mr. Stein, unless there is a bit of time.

Just if I might, Mr. Chairman, one question to Mr. Kittredge, and thank you, Ms. Yee.

Senator SIMON. Yes.

Senator SIMPSON. I was just a little puzzled. I appreciate the remarks about the Kennedy-Simpson bill, and I believe that the increase in independent immigration will serve American business and thus, the national interest, better than the current law.

But you are suggesting an increase in employer-sponsored immigration of well over 100 percent, and given the modest backlogs that exist in the third preference, which is the category that you speak of, what businesses would need such a large number of immigrants, a 100-percent increase?

Mr. KITTREDGE. Well, I would let Mr. Copeland answer in a minute, but I would like to just make one comment on that. I do understand there is a backlog. I do understand that with the increase in activities—I have just come from attending a "Europe 1992" program at the Willard, and the amount of interest in the activities between the United States and Europe over the next number of years and the number of ventures and the number of associations between various companies is bound to increase the amount of interchange between countries.

Senator SIMPSON. It seems peculiar that when we have such a modest backlog there that the increase is so total. I did practice law for 18 years, and I wondered if the immigration lawyers were in full tilt on that one.

Mr. KITTREDGE. Maybe so.

Senator SIMPSON. Could be.

Mr. COPELAND. Senator Simpson, if I may, I am not sure that that is, in fact, anything that enhances the immigrant lawyers, of which I am not a member.

Senator SIMPSON. It would, obviously.

Mr. COPELAND. I really can't see that if this is something that enables people to do this, it is not something that enhances the lawyer's job. It seems to me that all it does is allow people to bring a certain number of professionals into the country that are currently needed.

Senator SIMPSON. With a lawyer assisting them in doing it at every step.

Mr. COPELAND. We don't within my organization.

Senator SIMPSON. Many do, many do.

Mr. COPELAND. In any case, if we look at a 1-year backlog right now in third preference, we have increased just in the Procter & Gamble Co. the number of subsidiaries and affiliates by about six within the past year.

And these backlogs that we are currently trying to cope with to get people into the right job at the right time are simply standing in the way of our being able to do business, and that is really what the issue is.

Senator SIMPSON. Mr. Chairman, I know we want to smooth that flow, too, but we have found many times in the course of it that it isn't always smoothed by the fact that some immigration lawyers, with a very definite, real commitment to their craft, are interested in keeping the INA like it is, a total mix of stuff that ought to be rewritten. Someday, we will get to that.

But, anyway, you are very patient, Mr. Chairman, and I appreciate it very much.

Senator SIMON. Thank you, Senator Simpson.

Mr. Stein, just one question. You said we should wait before passing anything. How long do we wait?

Mr. STEIN. Senator Simon, I would wait at least 3 years, which would give us an opportunity, first of all, to analyze the data that came in on the legalization applications and the applications on relatives in the country as a result of the amnesty program, and would also give us some indication of what the likely numbers are for people who are going to be petitioning for their relatives who got amnesty.

It will also give us, I think, if the INS can do it, enough time to give us a sense of how many people who are currently in the fifth preference are now no longer in the fifth preference as a result of the amnesty. We don't know that right now. And, Senator Simon, that would give us some opportunity to at least assess what the long-range picture is.

I also get the very distinct impression, FAIR does, that we need some time to debate these questions. We understand that there are apparently some problems that American business is having in getting certain key personnel into this country, and maybe that is the key impetus for moving these bills so quickly through, and maybe that can be handled with a somewhat more modest vehicle than this one.

But it seems like we are engaging in a major philosophical shift with this point system and the approach that we are taking that needs more study.

Senator SIMON. Ms. Munoz and Ms. Yee, Senator Simpson has talked about families bringing in 30 or 40 or 50 relatives under the fifth preference. I would guess there are not too many who are beginning in 30, 40, or 50.

Legislation is the process of compromise. What if we were, on the fifth preference, to put a numerical limit in terms of how many could come under the fifth preference?

Ms. MUNOZ. Under current law, there is a numerical limit for the fifth preference. And to respond to your question about the whole specter of chain migration, in January 1988 the GAO issued a study which indicated that there is no evidence to support the theory that there is a significant threat, if you were to call it that, of chain migration.

So, we are not convinced that the fifth preference is a vehicle for this sort of phenomenon. But as it stands right now, 64,000 people enter every year under the fifth preference category. The Kennedy-Simpson proposed legislation would reduce that number by 1993 to 22,000.

We don't agree with the logic that because the category is backlogged, we need to restrict the numbers and reduce eligibility. That strikes us a little bit like dealing with a headache by cutting off the head.

Senator SIMON. What I am suggesting is, because we are going to have to work out a compromise here in the legislation, should there be a numerical limit on numbers within a family?

In other words, Senator Simpson is talking about 30, 40, 50 coming in from one family under the fifth preference. Now, I am not aware of those cases. I am not suggesting that there aren't some who may take advantage of the law. Some kind of numerical limitation on family members from one petition is what I am talking about.

Ms. MUNOZ. If there is no evidence that it is happening, I don't see any reason to put a numerical limit on how many people from any individual family should get in.

Ms. YEE. The issue of chain migration that Senator Simpson has addressed, is another area where I would like to see some documentation. I have heard of one case in New York where there was an individual who brought in 70 people. However, chain migration is not typical and is not a pattern that has been repeated.

The typical immigrant brings in his/her immediate relatives. Sometimes, many years later, this immigrant could bring in a brother or sister, who many years later could bring in immediate relatives. To answer your question, Senator Simon, if chain migration is ever proven to be a problem, again, contrary to the January 1988 GAO study findings, we will certainly address the issue as honestly as possible.

Senator SIMON. I would appreciate it if the two of you could take a look at that.

Ms. YEE. Sure.

Senator SIMON. One of the differences between the measures is the question of married or unmarried brothers and sisters. What harm is done when you limit it to unmarried brothers and sisters?

Ms. YEE. Well, under Senate bill 358, we are asking those people to already wait for what would eventually be up to 75 years, which is not enabling someone to live life, with the hope of someday entering this country. It doesn't make sense for them not to marry during any waiting period. No distinction should be made on the basis of marital status. The importance of kinship does not change when a brother or sister marries.

Three-quarters of those who entered under fifth preference from Asian countries have been married. Thus, if a never-married restriction is imposed, thousands of Asian immigrants would not be allowed to enter this country. Families would be separated significantly longer.

Senator SIMON. Ms. Munoz?

Ms. MUNOZ. I would say very simply that we disagree very strongly with the notion that our married siblings are somehow lesser family members than our unmarried siblings.

Senator SIMON. Then kind of a basic philosophical question. One bill zeroes out the fifth preference; the other bill does not. What I will have to face in the subcommittee and the committee and on the floor is the question, How do we best serve this country?

I would like to ask the two of you, how do you answer the question, How does having that fifth preference serve the interests of the United States?

Ms. MUNOZ. I think the best way to answer that is to respond to how family-sponsored immigration as a whole serves the interests of the United States. Again, going back to the recommendations of the Select Commission, all evidence to date shows that there is nothing wrong with legal immigration. In fact, legal immigration very much serves the economic and social interests of the United States.

There is no evidence to suggest that it needs to be limited, and I think Mr. Stein's contention that because we may have a problem with illegal immigration that we somehow need to limit legal immigration, is sort of comparing apples and oranges.

There is no evidence to suggest that the current levels, and even increased levels, of people coming in are detrimental to the Nation. So, I think, again, based on the Select Commission's findings, our best interests are served by increases in levels of immigration, increases in family-sponsored immigration, backlog reduction measures, and an independent category which promotes equity and diversity and doesn't cut into family-sponsored categories.

Senator SIMON. Ms. Yee?

Ms. YEE. I would simply say that immigration is healthy, and that the more people coming from diverse backgrounds will only help to contribute to make this country even stronger.

Senator SIMON. And then, finally, I hope we can get some compromises worked out that will, in effect, take care of some of the concerns across the board here from the panel. If I may ask the two of you, if compromises are not able to be worked out, if you face a choice which I could face that you vote for Senate bill 358 or the current law, how would the two of you vote?

Ms. MUNOZ. The status quo, in our opinion, is favorable to the provisions of Senate bill 358.

Senator SIMON. Ms. Yee?

Ms. YEE. Well, I would hope we could get some of the amendments in from Senate bill 448, but I echo Ms. Munoz.

Senator SIMON. But if you do not get the amendments, if you were a United States Senator—and I do not want to wish that upon you now, but if you were, would you then vote against the bill, if you had the choice of Senate bill 358 as it now is or the current law?

Ms. YEE. I would go with current law and continue the status quo as things are now. Hopefully, an acceptable bill will be passed in the near future. We should have more hearings on legal immigration reform, engaging those communities most impacted. We need to continue this process and gradually develop solid legal immigration reform legislation. Current law is definitely preferable over Senate bill 358.

Senator SIMON. All right. We thank all of you very, very much for your testimony. Senator Kennedy has been detained in his meeting with President Cerezo. He asked to have his apologies extended to the panel.

Senator Kennedy, Senator Simpson, and I may also submit some written questions to all of you. We would like to have those answered as promptly as possible.

The hearing stands adjourned.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]

APPENDIX

Additional Submissions for the Record

COMMENTS SUBMITTED FOR THE RECORD

BY

THE NATIONAL RESTAURANT ASSOCIATION

TO THE
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING LEGAL IMMIGRATION REFORM
"THE IMMIGRATION ACT OF 1989"
S. 358

The National Restaurant Association appreciates the opportunity to submit the following comments for the record concerning legal immigration reform and S. 358, "The Immigration Act of 1989." Revisions to the current immigration law are clearly necessary to allow U. S. industries and businesses, including the foodservice industry, to compete effectively in today's challenging economy and marketplace.

The National Restaurant Association is the leading trade association for the United States foodservice industry, which is comprised of over 625,000 establishments. As the nation's largest retail employer, the foodservice industry employs 8 million workers. By the year 2000, industry employment is forecast to increase by 46 percent to over 11 million workers.

Unfortunately, many in the industry are struggling to survive due to significant workforce shortages. A study commissioned by the Association in 1986, in fact, projects that in the absence of certain adjustments, the industry could experience a shortfall of fully one million workers by 1995. In addition, an Association-commissioned survey revealed a deficit of about 200,000 industry employees in the winter months of 1988 when the industry's demand for employees is at its lowest. Naturally, the industry's labor shortages are likely to be even more severe in months when demand for employees is highest and competition for workers is most intense.

In many areas of the country major employers in our industry have been forced to significantly reduce their hours of operation and in some cases actually close down operations for want of employees. While wage rates have risen 50-100 percent in the past two to three years in some areas, a competitive wage scale does not guarantee adequate numbers of employees due to the demographics of certain regions.

Furthermore, shortages continue in many areas even where employers provide flexible working schedules, ongoing training, opportunities for advancement, regular job performance evaluations, competitive benefits packages, child care incentives, and more. The following examples of actual situations should serve to illustrate the extent of the labor shortage problem for our industry.

- In California, some employers are now offering English (as a second language) classes to improve the skills of their employees, and to attract and retain additional employees.
- In Connecticut, some employers have purchased vans to transport employees considerable distances to staff their operations. Also, one quick-service company, after actually building several locations, was never able to even open due to the severe labor shortage.
- In Massachusetts, some restaurants are offering wages in excess of $7.00 per hour and are still forced to open late and close early due to the shortage of workers.

  In Cape Cod, several restaurants were unable to open at all during the summer season due to severe labor shortages. This was in spite of offering high starting salaries and even attempting to secure and subsidize housing facilities for some employees. In some cases, restaurants have only been able to open part of their facilities in the face of shortages of available employees.

> In Hyannis, specifically, one 24-hour restaurant was forced to adjust its hours of operation from round-the-clock to only 8:00 a.m. to 3:00 p.m. due to a lack of staff.

These are just a few snapshots of what is occurring in a growing number of areas across the country.

Leading proponents of legal immigration reform have asked for revisions in current law that will more effectively serve the national interest. The foodservice industry is an integral part of the nation's economy, with sales equaling nearly 5 percent of the U. S. Gross National Product. The industry employs more minority managers than any other retail industry, and provides jobs for over 15,000 people with disabilities each year -- again, more than any other industry. It surely serves the national interest to promote policies that ensure the continued viability of an industry that makes such substantial social and economic contributions.

We suggest two ways to address the employment needs of the industry through legal immigration reform: (1) retention/expansion of the Sixth Preference to admit unskilled workers into the U. S.; and, (2) adjustment in the H-2B program, which allows nonimmigrant workers to come into the country temporarily to fill some positions for which there is a shortage of domestic workers.

Historically, many immigrants, skilled and unskilled, have entered our country and begun restaurants or other small businesses. Eventually, many of them have come to successfully own and operate one or more small businesses that are the building blocks of our economy. In any society, including ours, there are, and will always be, a wide variety of jobs to be done. Each has its place and importance in our economy. The opportunity to pursue the American dream should not be limited to only those with specific language, education or work experience qualifications. The Sixth Preference serves an important purpose in supplying our nation with immigrants who have throughout history availed themselves of the opportunity to work and to contribute to the economic well-being of our country. This opportunity should be an egalitarian one and should not be restricted only to the highly educated or otherwise privileged groups of immigrants.

Increasing the number of immigrants admitted into the country under the Sixth Preference would clear up the tremendous backlog of applicants in this category. The State Department estimates that Sixth Preference visas will advance approximately one week per month over the next year. This means it would take 12 years for recent applicants to become legal. As well as shortening this backlog, allowing unskilled immigrants into the country in a more efficient and expeditious fashion would simultaneously expand the labor pool from which the industry could attract workers.

There are concerns that because these unskilled workers would eventually leave entry-level positions, once again leaving those positions vacant, it would be inefficient to provide permanent visas to unskilled workers. Actually, it is a bonus that workers advance beyond entry-level positions. Employees leave these jobs with training and skills. Certainly the sponsors of the legislation at hand recognize the need for skilled workers. In the foodservice industry alone it is projected that the demand for managerial and management-related workers will increase by over 50 percent between 1986 and 2000. Foodservice is a ladder to management opportunity, and we look forward to being able to recruit these higher skilled workers when they advance beyond entry-level positions.

Recognizing the magnitude of the labor shortage, it is unlikely that expanding the number of visas provided under the Sixth Preference could adequately address all the nation's needs for unskilled workers. Adjustment in the H-2B program is equally essential. Currently, nonimmigrant workers are allowed into the U. S. under the H-2B program only in cases where the worker is coming into the country temporarily to fill a position which is itself temporary. This extremely narrow application of the H-2B program renders it ineffective in providing relief for shortages of domestic workers to fill most positions. By eliminating the "double temporary" condition of the program and instead requiring only that the worker be temporarily in the country, a significantly larger number of positions could be filled. Other nonimmigrant visa categories, even within the overall H category, are not subject to this "double temporary" bind.

In addition, the procedural maze through which employers must navigate to obtain H-2B visas further restricts the efficacy of this program. As it stands now, the very strenuous efforts made by industry to recruit and obtain domestic workers, before consideration is even given to using the H-2B process, are wholly ignored. Legitimate business decisions and attempts to obtain quality-minded workers are second-guessed by people unfamiliar with either the industry or the jobs that need to be filled. A legislative vehicle for revising the H-2B program could alleviate much of the present red-tape associated with the program.

For the segment of our membership with international operations, there are other portions of the existing immigration law that the National Restaurant Association feels are in serious need of revision and deserve committee consideration. Chief among these is the L-1 Intracompany Transferee Category. The definitions of the types of international personnel who are eligible for transfer reflect neither business realities nor the original Congressional intent with respect to this category. We would be pleased to work with subcommittee staff to develop appropriate statutory language in this area as well.

The National Restaurant Association shares the subcommittee's commitment to legal immigration reform in the 101st Congress, and appreciates the willingness of the subcommittee to explore the interests of the foodservice industry in this area. We look forward to continued discussions with the sponsors of S. 358 and the members of the subcommittee.

Reviews the Issues: AFL-CIO
December 1988
Report No. 22

WORKERS AND JOBS IN THE YEAR 2000

By the year 2000, there will be another 18 million workers in the U.S. labor force.

There will be 12 million more women--but only 6 million more men--for a total of 140 million workers in the year 2000.

And there will be more minority workers. Of the 18 million added workers, 6 million will be Hispanic, 3 million will be black and 2 million will be Asians.

Women will make up a bigger share of the workforce, about 47 percent. Blacks will be about 12 percent. Hispanics will be 10 percent. And Asians, American Indians, and Alaskan natives will be 4 percent.

White males are already less than 50 percent of the U.S. labor force. In 12 years they will be an even smaller part of the workforce.

Some of these 18 million workers--to be added to the present 122 million civilian labor force--will be immigrants, but most of these future workers are here in America already. They are already born.

Some of these future workers are now in Kindergarten. Some of them are in elementary school. Some of them are in high school. Some of them are already in the labor force--already in the ranks of the unemployed.

To prepare young workers for the world of work is one of the key responsibilities of our nation's school system.

But the school system must be backed up by an effective system for training and retraining and skill upgrading.

And there must be jobs.

Jobs

Supply-side economics is now totally discredited in theory and in practice. "Supply-side" was a new label for the old "trickle-down" economics aimed at helping big business and helping rich people get richer.

It's time to practice demand-side "percolate-up" economics. It's time to focus on generating demand for the goods and services Americans can produce when our labor force is fully employed.

This means we must make sure that there's enough income, enough "buying power," in the pockets of low- and middle income Americans so that demand for goods and services grows fast enough to create enough jobs for new workers and displaced workers and for all unemployed workers who want to work and earn and be part of America's economic mainstream.

Unemployment

The AFL-CIO supports the policies and programs set forth in the Humphrey-Hawkins Full Employment and Balanced Economic Growth Act of 1978. This law affirms the basic human right of every American to full opportunity for useful, paid employment at fair rates of compensation.

Unfortunately, in spite of some improvement, unemployment is still high--with more than 6 million Americans officially jobless, another 1 million discouraged workers who have stopped looking for jobs they cannot find, and 5 million part-time workers who want full-time jobs and full-time paychecks. Bureau of Labor Statistics projections indicate unemployment will still be about 6 million in the year 2000.

Education

America's schools--for all their diversity and weaknesses--are a key feature of our democracy. They offer an amazing range of opportunity to America's young people, not only in preparation for higher education but also in preparation for life and for the world of work.

Currently, 85 percent of Americans 25 to 29 years old have completed high school. Half of these went on to college and half of those attending college complete four years and graduate. So 22 percent of the population aged 25 to 29 have college degrees.

But only 11 percent of blacks aged 25 years and older--and only 8 percent of Hispanics--complete four years or more of college.

The AFL-CIO supports a strong federal partnership with state and local school authorities and continued federal investment in education. This means Congress should maintain the federal government's major role in education and in supporting such programs as aid to the handicapped, bilingual education, pre-school and educational enrichment for disadvantaged children.

The AFL-CIO is also urging more opportunities for low- and middle-income students to attend college or return to college to upgrade their skills--and more federal support for vocational education programs that reach almost 20 million students.

Training

The average worker will change jobs six to ten times in the course of his or her working years.

Technology changes, industry changes occupation changes, skill changes--all combine to increase the need for workers to get as much training and education as they can.

All workers must have opportunities for training and education to get jobs, keep jobs, and to get better jobs. Many unions are giving priority to such training and education in their negotiations with employers.

Human resource and productivity improvement must be achieved through better education, basic skills remediation, training, retraining, upgrading, and opportunities for upward mobility for all workers, both employed and unemployed.

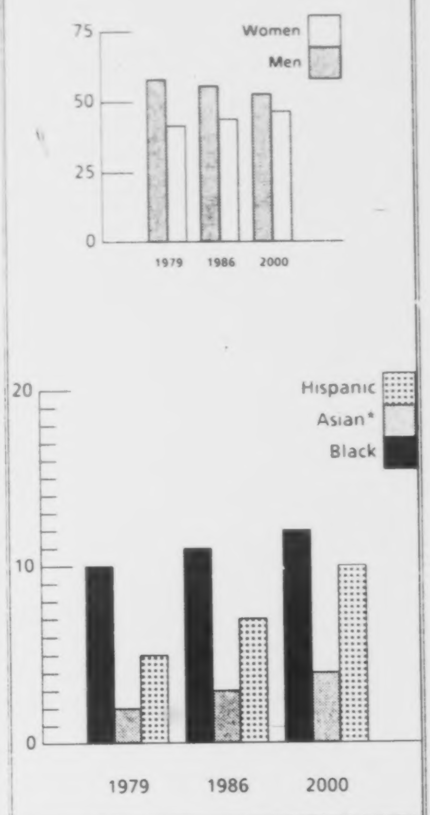
Trade unions have special responsibilities for supporting, protecting, and promoting training and education programs for their members and for potential members.

Employers and local, state, and federal government agencies also have basic responsibilities for supporting and promoting training and education opportunities for working people.

Labor organizations must have an equal voice with business in designing and implementing training programs in both the private and the public sectors.

Unions must have an opportunity to review and comment on all training programs before decisions are made on which projects will be funded.

Apprenticeship with its combination of on-the-job training and formal instruction must be preserved, strengthened and extended to new developing industries.



PERCENT DISTRIBUTION OF CIVILIAN LABOR FORCE

*Asians includes American Indians, Alaskan Natives and Pacific Islanders as well as Asians

Source: Bureau of Labor Statistics

Dislocated worker programs, Trade Adjustment Assistance, Job Corps, and other effective training and worker assistance programs should be retained and strengthened. And training allowances and income support should be available for workers in training programs.

Good Jobs, Bad Jobs

Unfortunately, the new service-oriented economy is not producing enough of the good-paying jobs needed to maintain consumer buying power. It is not doing enough to raise workers' earnings, family income, and American living standards.

The low-wage sector is the job growth sector. In 1987, 33 percent of white workers and 42 percent of non-white workers earned below-poverty wages, according to a Senate Budget Committee report issued in September 1988 which examined job growth during the past eight years.

"Jobs paying below the poverty level are growing faster than any other kind," reported Committee Chairman Lawton Chiles of Florida. "And jobs that provide a middle-class standard of living are a shrinking part of our job landscape."

In the 1980s, 50 percent of the net increase in jobs has been in jobs paying less than a poverty-level wage, and the trend appears to be accelerating, the Senate study found.

AFL-CIO PROGRAMS

There's been a slight increase in high-pay jobs over $46,400 (in 1987 dollars) from 3.7 to 4.5 percent of the workforce, the report found, but the big job growth has been in jobs paying below $11,600 a year, the poverty level for a family of four.

The share of relatively well-paid jobs in manufacturing has gone down from 25 percent of total employment in 1970 and 20 percent in 1980 to 18 percent in 1988.

So the overall quality of employment and earnings in the U.S.A. is declining as a result of the increase in low-pay jobs and the decline in traditional mid-level pay jobs.

Over the years the AFL-CIO has laid out a comprehensive set of programs to meet America's social and economic needs for the immediate future, for the year 2000, and beyond.

Percent Distribution of Wage and Salary Employment	**1988**	**2000**
Total Nonfarm Wage-Salary Employment Sectors	100	100
Goods producing	24.0	20.7
Manufacturing	18.3	15.2
Construction	5.0	4.9
Mining	0.7	0.6
Service-producing	76.0	79.3
Services (business and personal)	24.1	27.3
Retail Trade	18.1	19.1
Wholesale Trade	5.8	6.1
Government	16.4	15.4
Finance, Insurance, Real Estate	6.3	6.6
Transportation, Public Utilities	5.2	4.8

Source: **Bureau of Labor Statistics**

A free and democratic society, a healthy economy with jobs for all who seek employment, rising living standards, and national security are key features of the AFL-CIO approach.

Job-creating economic growth must be the aim of fiscal policy (government spending and taxing) and monetary policy (interest rates, availability of credit, and money supply).

Trade policies must promote America's economic strength and national security, cut trade deficits, stop unfair trade practices, set realistic exchange rates for the world's major currencies, promote international workers' rights to organize and bargain collectively, and promote international fair labor standards.

Job and training programs must assure all workers more and better opportunities for getting necessary education and skills, upgrading and training and retraining, dislocated worker and trade adjustment assistance, job counseling and job placement, job-creation programs and "last-resort" job programs

Minimum wage increases are needed on a continuing basis to lift the working poor out of poverty.

Unemployment insurance improvements are necessary to provide a better "safety net" for jobless workers and their families

Health security improvements are needed, now with employers required to provide minimum benefits, eventually with a national health care system

Day care for children of working parents and parental leave are necessary

Equal employment opportunity, pay equity, and anti-discrimination protections with effective enforcement are necessary to help women, black, Hispanic and other minority workers

Toward the Year 2000

In the year 2000, the basic purpose of labor unions will be--as it is now--to help workers meet their needs for better wages and working conditions, job security, dignity and self-respect on the job, and participation in the decisions which govern life on the job and life in America

Participation means collective bargaining and it also means political and legislative action

Bargaining--the bread and butter of unionism--will continue to seek new ways to help workers and their families, sometimes with a number of unions in coordinated bargaining, sometimes in corporate campaigns going beyond the bargaining table, sometimes in new forms of labor-management relations

More and better organizing will continue high on labor unions' agenda in the year 2000 Special targets for organizing are women, black, Hispanic, and professional workers

A broader range of benefits and services and new forms of union membership will bring the benefits of unionism to more Americans

Unions are here to stay. America needs strong, healthy unions to keep up the pressure for economic and social justice

Percent Distribution of Employment by Occupation 1986-2000	**1988**	**2000**
Total	100	100
Clerical, Admin. Support	15.8	16.6
Service Workers	15.0	16.5
Professionals	12.4	12.9
Operators, Assemblers, Laborers	15.7	12.6
Salesworkers	11.8	12.3
Craft, Repair, Precision Production	11.7	11.7
Executives, Managers	9.8	10.2
Technicians	3.2	3.9
Farm, Forest Fishery Workers	3.1	2.6
Private Household Workers	0.7	0.7

Source: Bureau of Labor Statistics

Prepared by Markley Roberts
Economic Research Department

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

Memorandum February 1, 1989

TO : Senate Judiciary Committee
Subcommittee on Immigration and Refugee Policy
Attention: Michael Myers

FROM : Linda LeGrande
Specialist in Labor Economics
Economics Division

SUBJECT : Analysts' Thoughts About Future Labor Needs

This memo responds to your request for brief summaries of analysts' thoughts about the nature of the U.S. labor force and of job growth in the future. A sample of the limited research on these subjects appears below.

Johnston, William B. and Arnold E. Packer. Workforce 2000: Work and Workers for the Twenty-First Century. Indianapolis, Ind., Hudson Institute. 1987. 117 p.

The aging of the baby boom and the entrance of the baby bust into the labor force means an older, more experienced, but less adaptable workforce through the year 2000. These demographic trends also mean a tighter labor market among young workers which, in turn, will create a changed situation for firms used to expanding by drawing from the once large number of young, flexible, relatively well-educated and low-paid workers. The fastest growing jobs are projected to be in professional, technical, and sales occupations which have high educational and skill requirements. The majority of all new jobs are expected to require a postsecondary education. Future increases in educational and skill demands will have different effects on the various demographic groups in the workforce. Both slow labor force growth and their current occupational distribution bode well for the job prospects of young whites. Both their current educational levels and concentration in less-skilled, slow-growing occupations could worsen the job prospects of black men and Hispanics. Most new entrants to the workforce will be minorities (including immigrants) and women.

Fullerton, Howard N. Labor Force Projections: 1986 to 2000. Monthly Labor Review, September 1987. p. 19-29.

The U.S. Bureau of Labor Statistics (BLS) expects that the prime working-age group (25-54 years old) will be an increasingly large share of the labor force through the year 2000 as baby-boom workers grow older. Minorities' share of the workforce also is expected to grow. The increasing presence of Asian and Hispanic workers is based upon assumptions of high rates of population growth and immigration. Between 1986 and 2000, net migration could account for nearly one-fourth of labor force growth.

Silvestri, George T. and John M. Lukasiewicz. A Look at Occupational Employment Trends to the Year 2000. Monthly Labor Review, September 1987. p. 46-63.

The BLS also projects an employment shift from low-skill to high-skill jobs. The occupational groups in which the most highly educated workers now are employed--executive, managerial and related jobs; professional jobs; technical and related support jobs--are expected to continue expanding rapidly. The occupational group of service workers also is projected to increase substantially, but in contrast, the educational attainment of workers customarily employed in service occupations (e.g., janitors, waiters, nursing aides) is relatively low. Office and factory automation, changes in consumer demand, and import substitution are expected to produce no or slow job growth among other less skilled occupational groups (e.g., clerical and blue-collar workers).

Personick, Valerie A. Industry Output and Employment through the End of the Century. Monthly Labor Review, September 1987. p. 30-45.

The BLS expects almost all of the future increase in jobs to be in service sector industries (i.e., transportation and public utilities; wholesale and retail trade; finance, insurance, and real estate; services; government). Employment in manufacturing industries, which are in the goods-producing sector, has been dropping since 1979. Although manufacturing has made a comeback since the 1981-82 recession, changed economic conditions (e.g., foreign trade) have hampered a full recovery of manufacturing employment.

Kutscher, Ronald E. Overview and Implications of the Projections to 2000. Monthly Labor Review, September 1987. p. 3-9.

The BLS has drawn a number of implications from its projections. With fewer teenagers looking for work, there is a chance that their high unemployment rate might decline. This opportunity could be assisted by the large job gains projected in eating and drinking places, retail sales, and many service industries that often hire new jobseekers. But lowering the jobless rate might be difficult because of the increasing presence of minorities in the labor force. The fairly high jobless rates of blacks and

Hispanics could persist unless their problems, such as educational and geographic mismatches, are addressed. People's concern over a potential labor shortage in future years often reflects more the declining number of young workers than an overall lack of workers. Employers consequently have turned to hiring from other sources of labor (e.g., retirees and immigrants). To the extent that immigrants are non-English speaking, however, they may have employment problems. Given the occupational shift toward jobs requiring more education, some immigrants might not possess the skills being demanded by employers. Immigrants' concentration in certain geographic areas also could make their jobseeking difficult. Employment declines projected for agriculture, mining, and manufacturing industries--nearly the entire goods-producing sector--mean continuing worker displacement. Given the geographic concentration of some of these industries, certain areas could be particularly hard hit. Although some displaced workers might find new jobs in the same industries, occupations or areas, others might need to retrain or relocate to obtain new jobs. The problem of displaced workers is exacerbated by the rising educational requirements of expanding occupations. While jobs for workers with only high school educations should continue to be available, workers with less schooling could find it increasingly difficult to get a job and to advance.

Terleckyj, Nestor E. Demography and Changes in the U.S. Labor Force, 1950-2010. Looking Ahead, Summer 1987. p. 18-21.

The past 25 years have been characterized by rising labor force participation rates among the adult population. Demographers and health scientists expect the significant increases since 1970 in life expectancy among older persons to continue. This trend, along with other factors, could temporarily reverse the decline in labor force participation rates among 45-64 year old men. Around 2010, however, the proportion of the adult population that is working will fall rapidly as the then old baby-boomers retire. According to the National Planning Association, this could limit the sources of future economic growth and well-being to productivity gains and possibly to the immigration of new workers.

Cyert, Richard M. and David C. Mowery (eds). Technology and Employment. Wash. D.C., National Academy Press. 1987. 225 p.

Technological change alone is unlikely to require substantial upgrading of the overall labor force's level of job-related skills, although it may cause worker displacement in certain occupations, industries, and areas. Many computer-based technologies are becoming more user friendly, with much more "intelligence" imbedded in hardware and software so that users should need only limited training to operate equipment. Workers in the future thus will need to have a good foundation in basic skills (i.e., literacy, problem-solving, numerical reasoning, and written communication competencies) rather than to have made a substantial investment in computer literacy, according to the National Academy of Sciences.

CAIC

COALITION OF APPAREL INDUSTRIES IN CALIFORNIA

March 3, 1989

Michael J. Myers, Esq.
Subcommittee on Immigration and
Refugee Affairs
518 Senate Dirksen Office
Building
Washington, D.C. 20510-6275

RE: March 3, 1989 - Senate Hearings Immigration & Refugee Affairs

Dear Mr. Myers:

The Coalition of Apparel Industries in California (CAIC) is a statewide amalgam of apparel associations that have joined with other manufacturers, contractors, suppliers, and financial and educational institutions who are associated in various ways with the apparel industry.

The CAIC membership comprises approximately 600 manufacturers, contractors and suppliers in California, making it a major force in California industry. In the Los Angeles area alone, where most of the state's garment production is located, garment manufacturers and wholesalers report approximately $9.9 billion in sales annually, according to the Los Angeles Area Chamber of Commerce. Further, according to the Los Angeles Chamber, "Apparel is the third largest manufacturing sector in Los Angeles County, based on employment size, after electrical equipment and supplies, and aircraft parts."

It is a primary goal of CAIC to develop a positive approach to the problems existing in the apparel industry. Through the concerted effort of responsible manufacturers and contractors we have sought to bring a new perspective to the industry to dispel the "sweatshop" image---not by coverups or cosmetic responses, but by getting the membership involved in policy making and the legislative process. Membership in CAIC requires adherence to laws and business practices that enhance the position of the apparel industry in the community.

In California, at present, the apparel industry employs approximately 125,000 workers. The growth of the industry has been erratic, but in 1986, there were 82,000 workers employed in manufacturing and 12,900 employed in wholesaling. This growth rate has occurred in spite of strong competition from overseas and the continuing flood of imports manufactured off-shore often under appalling economic and physical conditions. Los Angeles apparel manufacturers can successfully compete and coexist with imports because of the heavy fashion content of local goods. Their position in the market is stable because they tend to specialize in turning out garments that require frequent design changes, rather than long production runs involved in turning out standard garments for the mass market.

The five county area centered around Los Angeles ranks fourth nationwide after New York state, Pennsylvania, and California in apparel production. We believe that one reason for this is that the Los Angeles area has developed a significant niche for itself that competes effectively with clothing produced in both the USA and overseas. Los Angeles produces "high fashion," High Profile" clothing. This type of clothing is trend setting, or a response to a sudden demand for a particular style. To fill these orders requires a quick response by manufacturers and fast and reliable delivery assurances. Since Asian producers take time to respond and have a longer production cycle, it makes it difficult for retailers to use off-shore manufacturers to fill orders for developing fashion trends. Los Angeles has developed its market position by being able to fill these needs.

Since the passage of the Immigration Reform and Control Act of 1986 (IRCA) in November of 1986, the apparel industry has found it increasingly difficult to fill many of its job openings. This is despite the efforts of CAIC to apprise its membership of the provisions of the act and its effect upon the industry. CAIC members, and the apparel industry at large, are in desperate need of legal, illegible labor. In the Los Angeles area alone, advertisements for employment go unanswered; signs on buildings for legal, qualified employees go unfilled.

The expected outcomes of IRCA have indeed materialized, i.e., some workers who qualified for amnesty left their garment industry jobs upon receiving permission to work in the USA. Whether this departure is temporary or permanent remains to be seen--but it appears to be permanent. As anticipated, there has been a reduction in new workers who have recently crossed the border entering the industry. We expect this condition to be a permanent one, since this is one of the main goals of IRCA. Likewise, we believe that many workers not eligible for amnesty have gone home either permanently or to ride out the change in the law.

An expected outcome has been that workers (whether eligible for amnesty or not) who were hired before November 6, 1986, and who were exempt from some of the requirements of the I-9 Form, have left the labor pool. This reached near panic proportions in September 1987 when the media erroneously reported that persons who had not yet received amnesty were going to be fired.

We believe that many of these workers, some of whom had filed for amnesty, left the garment industry for work in areas not targeted for compliance checks by the INS. Based upon this observation, we believe that the loss of both documented and undocumented workers in the industry could in part be the result of them transferring into industries not cited by the INS as prime gargets for raids and investigations for sanction compliance. We further believe that many of the workers who are already well on their way to successful completion of the amnesty process have left the industry for work in areas less prone to what they perceive to be disruption and harassment by the INS.

The present status of the industry is as follows: In California, we have approximately 2,000-3,000 openings in all job categories. Most of these are permanent positions, temporarily vacant. We cannot recruit enough men and women legally able to work in the United States to fill these positions, even though the wages that are being paid are substantially above minimum wage.

We could recruit men and women from Mexico and Central America to fill these vacancies while we are attracting legal United States residents to the industry. However, there is no visa category under Section 101(a)(15)(H) of the Act to give any of these "undocumented workers" temporary work status.

They are not eligible for H-1 visas because they are not professionals.

The H-2 category is not applicable, because the status is defined by the Act, and interpreted by the Department of Labor and the Immigration Service as a category for "temporary" jobs "temporarily" vacant. Most of these positions are permanent in nature.

What we suggest is that Section 101(a)(15)(H)(ii) be amended to read as follows:

> ". . .who is coming temporarily to the United States (a) to perform agricultural labor or services, as defined by the Secretary of Labor and Regulations. . .or (b) to perform other service or labor. . . ."
>
> NOTE: The Work "temporary" has been omitted from the statute.

With this amendment, the members of our association can temporarily solve the apparel industry's labor crisis by recruiting men and women who are undocumented workers in the United States to fill the vacant positions, while citizens and permanent residents are being recruited into the industry.

Sincerely,

Bernard Z. Brown
Bernard Z. Brown
President

AMERICAN BAR ASSOCIATION
GOVERNMENTAL AFFAIRS OFFICE • 1800 M STREET, N.W. • WASHINGTON, D.C. 20036 • (202) 331-2200

STATEMENT OF

CHARLES C. FOSTER
CHAIRMAN
COORDINATING COMMITTEE ON IMMIGRATION LAW
AMERICAN BAR ASSOCIATION

presented to the

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

concerning the

Proposed "Immigration Act of 1989," S.358, and S.448

March 3, 1989

Mr. Chairman and Members of the Subcommittee:

I am pleased to be afforded this opportunity to present this written testimony on behalf of the American Bar Association concerning the bill introduced by Senators Edward M. Kennedy and Alan K. Simpson, "The Immigration Act of 1989," S.358, and the bill sponsored by Senator Paul Simon, S.448.

I practice law in Houston, Texas, where I specialize in the area of immigration. I am currently Chairman of the Association's Coordinating Committee on Immigration Law. The Committee has been charged by the Association's policy making House of Delegates with coordinating the Association's immigration-related activities and implementing a substantial body of policies to reform immigration and nationality law and practice.

For more than 30 years, the American Bar Association has been keenly interested in the development of U.S. immigration policy. Although only a fraction of our members are involved in the practice of immigration law or directly affected by changes in the immigration selection system, our House of Delegates has considered and adopted a number of proposed reforms concerning an array of immigration issues. This attention to immigration reflects the Association's conviction that immigration is an important national interest. Indeed, our nation's evolution is distinquished by our unique immigration tradition and our policies towards immigrants, visitors, and refugees are an expression of our national character, values, and identity.

As the Select Commission on Immigration and Refugee Policy perceptively affirmed, immigration is in the national interest and immigrants enrich our nation in many ways:

> Immigrants, refugees and their children work hard and contribute to the economic well-being of our society; strenghen our social security system and manpower capability; strengthen our ties with other nations; increase our language and cultural resources and powerfully demonstrate to the world that the United States is an open and free society.

U.S. Immigration Policy and the National Interest, Executive Summary of the Final Report and Recommendations of the Select Commission on Immigration and Refugee Policy, March 1, 1981, at 6.

Only three times in this country's two hundred year history has the manner in which we admit immigrants been significantly modified. The structure of the immigration system that the present Congress ultimately adopts, therefore, is likely to be in place well into the next century. It will affect not only the rights of people who live abroad, but also impact on U.S. citizens, legal residents, and businesses in our communities.

Each of the immigration bills that have been introduced in the Senate is sensitive to these concerns, affirms the current emphasis on family reunification, and strives to open opportunities for "new seed" immigrants in recognition of the important contributions of immigrants to our nation's economic, intellectual, and cultural development. The Association supports these overarching goals and generally favors improvements to the system upon which we select and admit immigrants. At the same time, there are specific features in S.358 with which we disagree because they are likely to produce consequences exactly opposite of the laudable objectives articulated by its sponsors. We appreciate this opportunity to express our views to the subcommittee and to offer the following observations and suggestions for improving the pending legislation.

S.358 proposes to amend the Immigration and Nationality Act of 1952, as amended, and restructure legal immigration in the following ways.

1. It would change the system for allocating family preference visas by setting an annual limit of 590,000 visas, of which 440,000 would be reserved for family-connected immigration. The "family connected" visas would include what is now the immediate relative category and the current first, second, fourth and fifth preferences. However, whereas the second preference now permits immigration of all unmarried children of permanent resident aliens regardless of their age, this category would exclude unmarried sons and daughter age 26 and older. Similarly, the fifth preference would be modified to allow only the immigration of never married sisters and brothers of United States citizens. Each country may receive a maximum of 7 percent of the total preference visas available in each the family-connected and independent immigrant categories.

2. The bill would, during the first five years, provide increased visas for family-connected immigrants over current law, but makes fewer visas available to brothers and sisters of adult U.S. citizens (5th preference.) In addition, while the visa numbers for the spouses and unmarried sons and daughters of permanent resident aliens (2nd preference) are initially higher than under current law, the availability of such visas are projected to steadily decrease over time until 1998, when the General Accounting Office predicts that no visas would be available in this category.

3. The bill would also create an overall "independent" category including the current employer-sponsored third and sixth preferences, "selected immigrants" who would qualify on the basis of specified criteria, and a new investor category. These independent immigrants would be subject to a separate annual limitation for 120,000 independent immigrants (150,000 beginning in 1994), of whom at least 45% (54,000) would be selected immigrants. The third and sixth occupationally-based preference categories would remain employer-sponsored but be restricted to more educated and skilled workers. The selected immigrants would be chosen according to a point system without a requirement for family or employer sponsorship.

4. The bill provides for a triennial review of the numerical immigration levels by the executive branch and includes a mechanism for increasing or decreasing the level of immigration up to 5% without congressional action.

Senator Simon's bill, S.488, would remove immediate relatives from the family-connected visa limitation, increase the number of worldwide visas for all preference categories at 712,000, maintain the current definitions of second and fifth preference, provide temporary relief from deportation for family members of legalized aliens, and sets the maximum levels of immigration per individual country at 22,000 (5,000 for colonies and dependent areas).

The Association agrees that changes to the immigration system should preserve the historical emphasis on family reunification and reflect the diverse economic and cultural interests of the United States. In achieving these goals, the Association supports increased visa numbers for both family and employment-related preferences and a special increase in visa numbers for the second preference dependents of lawful permanent residents who legalized under the Immigration Reform and Control Act of 1986. The Association also recommends retaining the present preference category definitions for family members of U.S. citizens and lawful permanent resident aliens and for prospective employees of U.S. employers who have proved the unavailability of qualified U.S. workers.

In this regard, we particularly oppose enactment of provisions in S.358 to narrow the second preference category to exclude unmarried adult sons and daughters (over 26) of permanent residents, restrict the fifth preference category to never married siblings of United States citizens, and limit the sixth preference to skilled workers.

The Association does not oppose the concept of separate visa allotments for family-connected and "independent" categories, and supports the creation of a special category of investor visas tied to the creation of U.S. jobs. The Association also generally favors experimentation with independent, non-sponsored forms of immigration to promote diversity of national origin and talent. At the same time, we object to any amendment of our current system that would reduce the real numbers of preference visas, especially the visas for family-connected immigration, below the levels available under current law.

1. Maintenance of the Current Preference Categories.

Although the Association does not oppose separate visa allotments for family-connected and independent immigrants, the current visa preference categories should be preserved in their current form. In particular, the Association finds no justification for narrowing the classes of foreign nationals eligible for family-connected immigration under the current second and fifth preferences, or for the limiting employer-sponsored sixth preference.

First, we would point out that the Select Commission recommended no modifications to the current family-based preferences. It emphasized the importance of reunifying unmarried sons and daughters with their permanent resident alien parents and recommended that this group be given top priority. The Commission also recommended continuing "the present policy of admitting all brother and sisters of adult U.S. citizens."

Each of the preference categories has its own historical basis and independent justification for its existence and retention. The purpose of the second and fifth preferences is to reunify the close relatives of U.S. citizens and residents. A revision of the second preference category to exclude unmarried children of permanent residents who are age 26 and older would operate to separate families.

As the General Accounting Office has documented, the age limitation in the second preference will result in the disqualification of children from high demand countries. See Testimony of Eleanor Chelmisky, Assistant Comptroller General, March 3, 1989. For example, the waiting period for Mexico's 2nd preference is currently 10 years. Even if the wait does not increase, as predicted by the GAO, any child who now is at least age 16 will become ineligible for a visa by the time his or her priority date is reached -- even if his or her parent were to file a petition on the day of this bill's enactment. The same phenomenon is likely to be true for children of Korean nationals, who now experience waits of seven years, and potentially from other countries as well.

Sons and daughters do not cease being members of a family unit merely upon attaining age 26, or any other arbitrary age, and should not be abandoned abroad when their relatives emigrate. The current law treats all unmarried children equally, regardless of their age, and this feature should be retained in future legislation.

Similarly, a proposed change to the fifth preference would preclude the reunification of other family members by restricting this category to never marrried brothers and sisters of adult U.S. citizens. Contrary to assumptions made by the bill's authors, marriage does not sever or substitute for the bonds between siblings. In many cultures these ties are particularly strong and precious. In fact, the fifth preference is the most highly-utilized category by Asian immigrants despite current waiting periods of 10-15 years.

Moreover, limiting the fifth preference to never married siblings would not alleviate the pressures or reduce the backlogs in this category. To the contrary, the fifth preference would become impractical and utterly meaningless. According to the GAO, beneficiaries of petitions filed immediately upon enactment of S.358 now would have to remain unmarried for the next 75 years to qualify.

The bill also proposes changes in the sixth preference category, which would be incorporated into the new "independent" immigrant track, and limits this class to individuals capable of performing skilled labor requiring at least two years training or experience. As a labor market test is a prerequisite for eligibility in this category, the current definition is preferable because it protects U.S. workers while also accomodating the demonstrated needs of employers. Therefore, the Association favors retention of the current sixth preference definition as provided in the Simon bill.

2. Increased visa numbers.

The ABA recommends that the visa numbers for both family and employment-related preferences be increased above their current levels. This is consistent with the recommendations of the Select Commission and what appears to be a consensus in Congress that increases in visa numbers for the existing preference categories are both necessary and appropriate.

The sponsors of S.358 have also acknowledged that the United States will benefit from increased levels of immigration and view this bill as increasing the numbers of immigrant visas over those currently available. In fact, the total numbers of immigrants who will enter the United States between 1990 and 1999 will be almost identical under S.358 as under current law -- roughly 6.2 million and 6.1 million respectively according to the GAO. At the same time, owing to the formula for distributing family-connected visas, the opportunities for family reunification would be drastically reduced.

Historically, the Immigration and Nationality Act has set a limit only on the number of individuals who can immigrate under the preferences and no cap or limit on the number of individuals who can immigrate to the United States who are "immediate relatives" of American citizens, which includes only the bona fide spouses, unmarried children under age 21, and parents of adult United States citizens. Under S.358, through a complex formula, the family connected visas for all immigrants other than immediate relatives of United States citizens will be regulated.

Each year, the number of family preference visas will be reduced by a variable number depending on the numbers of immediate relatives who immigrated in the prior year. Thus, while the numbers of independent immigrants would increase from 54,000 to 120,000 in the first three years and then to 150,000 in 1994, over a ten-year period, there will be 947,000 fewer family preference visas under S.358 than under current law. GAO Testimony at 18. In just seven years, according to the General Accounting Office, the numbers of immediate relatives will exceed the family-connected ceiling of 440,000 visas, thus eliminating all other family-related immigration by 1998. Id. at 14.

Moreover, the steady reduction of opportunities for family reunification will coincide with a substantial increase in the demand for these preference visas owing to petitions filed by legalized permanent residents and the new selected immigrants on behalf of their spouses and unmarried children. According to GAO calculations, the backlogs in the current system will be exacerbated and result in longer family separations.

As the GAO further demonstrated, changes to the second and fifth preference definitions will not reduce the backlog. In addition, as the waiting list for second preference visas is pressured by IRCA beneficiaries and selected immigrants, their children will increasingly reach age 26 and be disqualified before a visa number is available. Even if their parents subsequently naturalize, they would not be able to petition for their children as immediate relatives until 1996. As children over age 21 do not qualify under the unlimited immediate relative category and the preference category for unmarried adult sons and daughters of U.S. citizens will simultaneously become oversubscribed, immigration options for these relatives will inevitably be foreclosed.

Under current law, family preference immigration between 1990-1999 is projected to be 2.2 million. Under S.358, the GAO predicts family-connected immigration would decline to 1.2 million if no changes are made. Ibid. Quite simply, rather than increasing the numbers of visas for family-connected immigration, the numbers will decrease and by 1998 all 440,000 family-connected numbers will be allocated exclusively to immediate relatives, resulting in the exclusion of foreign nationals with spouses, parents, and siblings residing in the United States.

While the bill provides for triennial review and a mechanism for adjusting the levels of immigration in future years, we cannot support legislation which, as written, sets into motion a predictable decrease in the levels of family immigration and has the potential to eventually foreclose all prospects for certain immediate relations to ever be reunited with their families in the United States.

3. Visas for Immediate Family Members of Lawful Permanent Residents Legalized Under the Immigration Reform and Control Act of 1986.

As well, it is appropriate to devise a remedy to unite lawful permanent residents who legalized under the Immigration Reform and Control Act of 1986 with their families. The Association believes that it is important to fulfill the promise of a generous legalization program by providing a special increase in visa numbers for the second preference dependents of lawful permanent residents and granting other temporary relief for the immediate dependents of lawful permanent residents legalized under the Immigration Reform and Control Act of 1986.

Under the Immigration Reform and Control Act, more than 3 million individuals applied for legal status. More than 1.5 million of these applicants have now lived in the United States since before January 1982. During their seven year residence, a large portion of the legalizing population has endured lengthy physical separation from their spouses and children who live abroad. Other legalized persons reside in mixed households of legal and illegal immediate family members -- i.e. legalized members living with relatives who have been here many years but arrived after the January 1982 legalization cut-off date. Although family unification historically has been one of the fundamental principles of this nation's immigration policy, none of these immediate family members were eligible to acquire legal immigration status under IRCA if they failed to qualify on their own.

Legalized individuals are now becoming permanent residents and will have the privilege of sponsoring their spouses and unmarried children under the second preference. However, as noted above, the waiting period for these second preference visas is already several years. As legalized residents increasingly file visa petitions for their immediate family members, this waiting period inevitably will extend many years into the future and, under S.358, are likely to become unavailable. In the meantime, many families will remain separated by great distances. In other families, the spouses and children who arrived here after the January 1982 cut-off date will continue to live an underground existence which IRCA sought to irradicate, subject to deportation away from their now legal family members.

To resolve the status of these ineligible family members in the same humane and generous spirit that Congress passed the legalization program, various legislative approaches have been suggested. The Association supported legislation passed by the House in the 100th Congress that would have prohibited the INS from deporting or requiring the departure of the spouse or child of a legalized alien and recommends enactment of similar legislation until such relatives can acquire permanent resident status.

We also would urge the Senate to consider other legislative remedies, including either a substantial increase in 2nd preference visa numbers over that proposed so that the family members of legalized persons will be accommodated without prejudice to the family members of other permanent residents waiting for second preference visas, or a special allocation for one or more years of visa numbers specifically designated for the second preference immediate relations of lawful permanent residents legalized under IRCA.

A larger number of second preference visas would minimize the perception that family members of legalized residents are receiving preferable treatment and skipping to the head of the line. On the other hand, a special allocation of visa numbers would not only facilitate the regularization of these families that have existed in a legal limbo for many years, but would also reduce the competition for visas with other second preference immigrants, and thus, diminish the backlogs and waits for second preference relatives of other permanent residents. Either of these solutions to make reunification a reality has the enthusiastic support of the Association.

4. Independent non-sponsored visas.

Our current immigration system promotes the role of close relatives and employers as sponsors of prospective immigrants. Not only is there an historical basis for maintenance of our preference system based upon sponsored immigration, but there is data which shows that sponsored immigrants are more likely to find and maintain employment and assimilate into the community.

As the Department of Labor and other witnesses have pointed out, these sponsors serve as buffers and mediators between the individual immigrant and new community. Families facilitate the immigrant's social, economic and political integration and enhance the immigrant's ability to make a successful transition. Families also provide an important private safety net, critical childcare, and a range of other social services which assist the immigrant's adjustment and social well-being. In fact, according to the Department of Labor, "[r]esearch has shown conclusively that the availability of these and similar services are among the strongest predictors of one's successful economic adaption." Testimony of Eugene K. Lawson, Deputy Under Secretary, U.S. Department of Labor, March 3, 1989, at 7.

Employer sponsors similarly help new immigrants adjust to the social and economic life of the United States, as well as ensure a direct source of financial support and assistance to the newcomer upon arrival. The occupational preferences are also a proven way to fine tune immigration based upon the needs of United States employers as they are contingent upon certification from the Department of Labor that U.S. workers are not available and will not be adversely affected. In view of the Labor Department's predictions that the "future growth of the U.S. labor supply may be unable to keep up with future labor demand," Labor Market Shortages (January 1989), immigration, and particularly employer-sponsored immigration, can provide an increasingly important source of workers. These labor pressures, in combination with the controls introduced in the Immigration Reform and Control Act of 1986, make the proposed increases in these categories both necessary and appropriate.

There is value, as well, to broadening the diversity of our population and ties to other nations through a system of "independent" immigration. Diversity can be accomplished by continuing on a temporary or a permanent basis a lottery system whereby visa numbers are given on a random basis to foreign nationals who apply in some equitable manner without any relationship to family ties or specific job opportunities, or by instituting a point system where visa numbers are allocated to individuals under a system which gives points based upon a variety of factors, including age, education, and job skills.

While there are many arguments for and against each of the specific proposals, including new information that a point system may be prohibitively expensive to administer, the Association believes it may be valuable to simultaneously experiment with and study one or two alternative forms of unsponsored immigration. However, whatever system that may be enacted should be nondiscriminatory and should not include English literacy as a standard. In establishing this kind of system, the United States should also be sensitive to the perceptions that we are luring precious human resources away from countries which have a more urgent need for them.

Given the lack of recent history or experience with such programs, any such legislation should be enacted on a pilot or experimental basis and the GAO should review and report on the actual operation of the lottery and/or point system annually. Additionally, such system or systems should not be at the expense of the traditional sponsored immigration but should be in addition to present or increased immigration levels for family and employer sponsored immigration and the proposed new investor visa category.

5. Investor Visas.

We commend Senators Kennedy, Simpson, and Simon for introducing legislation to reestablish a legal basis upon which foreign nationals who are in the process of investing a substantial amount of funds may legally immigrate to the United States. Until approximately 1976, it was possible for foreign investors in the United States to immigrate on a non-preference basis under the numerical limitation or quota system. However, due to the continuing visa demand, no visa numbers are presently available for this purpose and none are anticipated to become available in the foreseeable future under current law.

At a time when many states, cities and other groups are actively trying to encourage foreign investment in the United States, U.S. immigration law stands as a major barrier to foreign investors, who may not have any legal basis upon which to enter the United States to manage, direct or supervise their investment. Thus, we support allocation of a limited number of visa numbers tied to a minimum dollar investment that would have to be maintained for a fixed number of years and result in the creation of a fixed number of jobs.

CONCLUSION

The above recommendations by their very nature are general and do not deal with all of the difficult choices which Congress will eventually have to make. They represent proposals that have a tested historical basis within our practice under the Immigration and Nationality Act and will serve both the family reunification and the economic and cultural interests of the United States.

AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

STATEMENT OF THE
AMERICAN IMMIGRATION LAWYERS ASSOCIATION
ON LEGAL IMMIGRATION REFORM
"THE IMMIGRATION ACT OF 1989," S. 358 AND
"THE LEGAL IMMIGRATION REFORM ACT OF 1989," S. 448

TO THE
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS
COMMITTEE ON THE JUDICIARY
U.S. SENATE

MARCH 3, 1989

NATIONAL OFFICE • 1000 16TH STREET, NW • WASHINGTON, DC 20036 • (202) 331-0046

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

The American Immigration Lawyers Association (AILA) is the national bar association of almost 3,000 attorneys who practice immigration law. AILA member attorneys represent thousands of U.S. businesses and industries who sponsor highly skilled foreign workers seeking to enter the United States on a temporary or--having proven the unavailability of U.S. workers--permanent basis. AILA members also represent tens of thousands of U.S. families who have applied for permanent residence for their spouses, children, and other close relatives to lawfully enter and reside in the United States reuniting the family. AILA members also represent foreign students, entertainers, athletes and asylum seekers, often on a pro bono basis. Founded in 1946, AILA is a nonpartisan, nonprofit organization that provides its members with continuing legal education, information, professional services, and expertise through its 31 chapters and over 75 national committees. AILA is an Affiliated Organization of the American Bar Association and is represented in the ABA House of Delegates. For more information regarding this statement or the positions, publications, and activities of AILA, please contact:

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION
1000 16TH STREET, NW, SUITE 604
WASHINGTON, D.C. 20036
(202) 331-0046

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

INTRODUCTION

Chairman Kennedy and distinguished Members of the Subcommittee:

The American Immigration Lawyers Association commends the members of this Subcommittee for their initiative in advancing reform of the laws pertaining to legal immigration to the United States. It is, in our view, highly appropriate that our laws and policy on legal immigration be thoroughly reviewed and reformed to promote the national interest, both now and into the future.

As the major group of professionals representing both U.S. petitioners and alien beneficiaries in the immigration process, AILA members see daily the impact our immigration laws have on families and businesses across the country. As counselors, we know the emotional hardship of family separation, and we know the frustration and economic impact of delays in filling key positions. As attorneys, we are also sensitive to the need to set reasonable limits, to establish priorities and preferences, and to balance legitimate competing interests.

Since our last opportunity to testify before this Subcommittee, a number of new legal immigration reform proposals have been made and discussed. Although there are several points of disagreement among the legal immigration reform bills now pending in Congress, there are a number of important common areas of agreement. Each proposal recognizes that an increase in the annual immigration admissions is desirable and consistent with the national interest. There is also general agreement that our system will benefit by clearly separating family-sponsored immigration from non-family immigration, giving each type of immigration its own visa allocations. Virtually all parties agree that family unification should continue to be the major source of immigration to the United States. There is general agreement that overall per-country limitations can be increased. Those familiar with the permanent labor certification process support its streamlining while a foundation of knowledge is laid for more comprehensive reform in the future. There is also common interest in experimentation with independent, non-sponsored or "new seed" immigration to promote diversity and fairness among those able to immigrate to the United States.

In this statement we set out the remaining points of divergence, how they are addressed by the Kennedy-Simpson and Simon bills respectively, and the present position of the American Immigration Lawyers Association.

SPONSORED IMMIGRATION SERVES THE NATIONAL INTEREST

While we support efforts to provide for "new seed" immigration, the American Immigration Lawyers Association believes that sponsored immigration--immigration sponsored by a U.S. family member or employer--best serves the national interest and should continue to be the major source of immigration to the United States.

Family-sponsored immigration directly serves the national interest by reuniting American families, by providing support systems for the immigrants, and by helping the immigrants adjust to life in the United States. *Employer*-sponsored immigration serves the national interest in filling labor needs where labor certification has shown the unavailability of qualified U.S. workers. Employer-sponsored immigrants may not be admitted unless the Labor Department certifies that qualified U.S. workers are not available for the job, and furthermore, that employment of the immigrant will not adversely affect the wages or working conditions of U.S. workers. Finally, an immigrant's sponsor is a direct source of financial support to the immigrant upon arrival, thereby minimizing reliance on public funds.

Of the 100,000 *new* visas that would be provided annually by the Kennedy-Simpson bill (S. 358), only about 35,000 go to sponsored immigrants, while the remaining 65,000 would be allocated to non-sponsored, "new seed" immigrants and special immigrants (currently not limited). In contrast, the Simon bill (S. 448) provides 216,000 *new* admissions per year, of which 120,000 are allocated for increased family-sponsored immigration, 30,000 are for employer-sponsored immigration, and 66,000 are available for "new seed" immigration.

For the reasons outlined above, AILA recommends a revised allocation that would give a much greater share of the new visas to *sponsored* immigration. Specifically, AILA recommends an overall increase of at least 220,000 new visas, over half of which (120,000) should be allocated to family-sponsored immigration. Another 1/3 (66,000) should be allocated to employer-sponsored immigration, and the remaining visas (at least 36,000) should be allocated to new seed immigration.

World-wide Levels Of Immigration

Under current law, the immigration of immediate relatives, i.e., a U.S. citizen's spouse, minor children, and parents, is not numerically limited; nor are we aware of any proposal to impose a direct ceiling on such immigration. All other sponsored immigrants--all family and employer-sponsored immigrants entering under the preference system--*are* numerically limited. Currently, the worldwide ceiling on family- and employer-sponsored immigration is 270,000 a year, which together with about 220,000 immediate relative admissions per year reaches an annual worldwide level of about 490,000 legal immigrants annually. Again, both the Kennedy-Simpson bill and the Simon bill recognize the need for and provide for an increase in that number, which is a welcome development.

The Simon bill makes no changes as to which immigrant categories are numerically restricted and therefore backlogged versus those that are not restricted and therefore immediate. However, the Kennedy-Simpson bill departs sharply from current law by establishing a fixed worldwide ceiling under which increases in the number of immediate relatives would be set off against other family-sponsored immigrants, absent further increases in the overall level. Simply put, this set-off could soon mean annual reductions in the other family-sponsored categories, as long as immediate relative immigration continues to grow. As a practical matter, reductions in annual visa allocations do not mean immigration denied, but rather family unification delayed. We urge Senators Kennedy and Simpson to reconsider the set-off of immediate relatives against other family-sponsored immigrants, which could result in lengthening the time in which U.S. families are united with their close relatives abroad. We believe that much less drastic measures can be adopted to keep close track of the annual level of immigration to the United States. This new limit on family immigration should be put aside and considered only as a measure of last resort.

FAMILY-SPONSORED IMMIGRATION

FAMILY IMMIGRANT CATEGORIES SHOULD BE PRESERVED

In a significant departure from current law and the recommendations of the Select Commission on Immigration and Refugee Policy, the Kennedy-Simpson bill would alter long-standing definitions of two family-sponsored immigration categories. Under S. 385's equivalent of the current second preference category, unmarried sons and unmarried daughters 26 years or older *or who turn 26 before a visa becomes available* could no longer immigrate to join their lawful permanent resident parents. And under the bill's equivalent of the fifth preference category, brothers and sisters of U.S. citizens would lose immigration eligibility if they marry.

Understandably, these provisions have caused a great deal of alarm, particularly within the ethnic communities most likely to be directly affected. AILA members are quite familiar with both the sponsors and beneficiaries of petitions that are backlogged in the 2nd and 5th preferences. While no one is happy with this situation, those who are waiting patiently and lawfully in line strongly oppose the proposals to curtail these immigrant categories. The day upon which these immigrants can come to the United States is an important ray of hope that is not diminished by the time they must wait. Even those who have recently applied and who therefore confront the longest wait do not consider this opportunity to reunite with their families to be a hoax.

AILA strongly urges that the status quo be preserved so that those communities that are most directly affected by changes in these categories can fully participate in the debate and become part of the solution. The changes proposed by S. 358 to the 2nd and 5th preferences will not have a direct affect on admissions to the United States for many years. Thus, we seen no need to rush to make changes. Equitable legislation is almost always the ultimate result of compromise between competing interests. That compromise is more likely when the communities most affected have a full opportunity to participate in the debate.

ADDITIONAL VISAS FOR FAMILY PREFERENCE CATEGORIES

The Kennedy-Simpson bill would add only about 34,000 new visas for family-sponsored immigrants (about 250,000 annually, not including immediate relatives). From 1993 on, this number would be reduced by about 30,000 visas, absent further action.

Visas for brothers and sisters of U.S. citizens would be reduced from the current annual level of 64,800 (before spill-down--the actual total is closer to 70,000 per year) to 52,000 per year (from 1991-1993). This number would be further reduced to 22,000 per year from 1993 on.

AILA strongly favors the approach of the Simon bill, S. 448, that increases the number of visas available for family-sponsored immigration to 336,000 per year. Such an allocation would eliminate or greatly reduce the time most U.S. families must wait before they can be reunited with their close relatives.

INCREASES IN PER-COUNTRY LIMITATIONS ARE NEEDED

The increase in worldwide admissions should be accompanied by an increase in the per-country ceiling, in order to reduce backlogs. Under current law, no more than 20,000 visas, other than for immediate relatives, may be allocated to the natives of any one country in any fiscal year. Also, per-country levels of family-sponsored immigration can fluctuate, from year to year, depending on demand in employer-sponsored categories.

The Simon bill would raise the per-country ceiling from its current 20,000 per year level to 22,000 per year. Under S. 448, if it is determined that a country will reach the 22,000 ceiling in any fiscal year, visas will be allocated between family-sponsored and "independent" immigrants in a ratio of 4:1. In other words, if a country is projected to reach its 22,000 level, 17,600 visas would be allocated among the family-sponsored categories, and 4,400 visas would be allocated among the independent categories.

Under the Kennedy-Simpson bill, no more than 7 percent of the worldwide family immigration total or the independent immigration total may be allocated to any one country. The per-country ceiling for independent immigration would be 7 percent of 120,000 (for FY 1991-1993), or 8,400 per country. Assuming 220,000 immediate relatives immigrate in a fiscal year, 220,000 visas would be available for all other family-sponsored immigration. Seven percent of 220,000 is 15,400. Therefore, the per-country ceiling under Kennedy-Simpson would be 15,400 visas per year for family-sponsored immigration. For several countries, the new 15,400 level is well below current levels of such family-sponsored immigration. For instance, in FY 1987, six countries had greater than 15,400 family-sponsored immigrants. Those countries are:

China, Mainland	19,138;
Korea	18,610;
Mexico	16,632;
Jamaica	16,431;
Philippines	15,724;
Dominican Republic	15,511.

The new and lower 15,400 per-country ceiling on family-sponsored immigration could be further reduced under the Kennedy-Simpson bill if the worldwide immediate relative level exceeds 220,000. In addition, S. 358 contains a country-specific mechanism that would also set-off a country's immediate relative increases against its other family-sponsored per country level. According to S. 358, if a country's immediate relative total exceeds the greater of either:

a) the 7 percent per-country limit, or
b) the country's immediate relative immigration total in FY 1989 or 1990 (whichever is greater),

then the overage is subtracted from the following year's family-sponsored total. This deduction could take up to one-half of the country's total family-sponsored immigration, other than immediate relatives.

A hypothetical using FY 1984-1986 data for FY 1989-1991 puts the consequences of this provision in sharper relief. If Mexico's immediate relative total in FY 1991 is 44,200, it would certainly exceed the 7 percent per-country limit and it would also exceed the country's immediate relative immigration total in the designated control years (FY 89 = 35,200; FY 90 = 37,900) by 6,300 visas. Therefore, in FY 1992, Mexico's family connection immigration total would be reduced by 6,300 visas. Subtracting 15,400 from total family-sponsored visas, only 9,100 visas would be available for Mexican nationals to join their families in the U.S. in FY 1992. Under current law, over 18,000 Mexicans could join their U.S. families, in addition to immediate relatives.

AILA is mindful that painful tradeoffs must sometimes be made in crafting legislation. In recent years, however, U.S. families with relatives in the Western Hemisphere are often the ones paying the price and reaping few of the benefits. In 1965, the price paid for abolishing the national origins system was the imposition of a ceiling on certain Western Hemisphere immigration. Then, as part of immigration reform legislation passed in 1976, per-country limits began to apply to immigration from countries in this Hemisphere. This provision was passed only under great controversy, with Presidents Ford and Carter both urging increased immigration quotas for Mexico. Indeed, legislation containing provisions that would substantially increase Mexico's per-country limitation has been introduced (and passed by the Senate) as recently as the 98th Congress. It is difficult to understand why this new per-country set-off provision is included in S.358; AILA urges its elimination from the bill.

EMPLOYER-SPONSORED IMMIGRATION

INCREASED ATTENTION TO EMPLOYER-SPONSORED IMMIGRANTS IS WELCOME

AILA supports the separation of family-based immigrant categories from the non-family categories, each with its own numerical visa allocation. Employer-sponsored immigration, such as under the current third and sixth immigrant preference categories, deserves independent and substantial attention from Congress and the Administration. Employer-sponsored immigration has a direct impact on U.S. businesses and the economy.

AILA therefore supports the separation of family-based immigration from employer-based immigration as proposed in S.358 and S.448.

INCREASED ADMISSIONS FOR EMPLOYER-SPONSORED IMMIGRANTS ARE IN THE NATIONAL INTEREST

U.S. employers rely on the employer-sponsored immigrant categories to fill critical personnel needs where a shortage of qualified U.S. workers has been demonstrated. Unlike non-sponsored immigration, most employer-sponsored immigration is based on an actual test of the labor market for qualified U.S. workers, with Department of Labor certification that employment of the alien will not adversely affect the wages or working conditions of U.S. workers. Current law does not depend on statistical forecasts or likelihoods of an immigrant's success, rather, actual jobs are being offered to identifiable individuals who possess specific job skills in short supply, and this best serves the interests of U.S. business and industry.

For years, the annual number of employer-sponsored immigrants has been limited to 54,000. Of that number, more than half are used for the family dependents of employee immigrants. Therefore, less than 25,000 visas per year have been available to foreign born workers qualified and willing to work in certified shortage occupations in the United States.

The present low number of available visas for employer-sponsored immigrants translates into harmful delays for U.S. business and industry, causing delays in projects, delays in production, and decreased economic competitiveness. It is our view that once a shortage of qualified U.S. workers is certified for a particular job, the delay before a qualified immigrant can be admitted should be minimal.

AT LEAST 120,000 VISAS SHOULD BE MADE AVAILABLE ANNUALLY FOR EMPLOYER-SPONSORED IMMIGRANTS

Legal immigration proposals in the last Congress would have resulted in as many as 150,000 visas per year for the non-family immigrant categories. An allocation of 120,000 of these non-family visas to the employer-sponsored immigrant categories could be expected to meet current needs and contribute to the substantial reduction of backlogs in the employer-sponsored categories.

The total backlog in the combined employer-sponsored categories (3rd and 6th preference) in January, 1988, was about 107,000 registrants. Estimating about 75,000 new applicants in the past year, 1988, the total backlog for employer-sponsored immigrants could be expected to hit about 128,000 registrants by January, 1989. Roughly speaking, based on these estimates, the proposed allocation of 120,000 visas per year could be expected to eliminate backlogs for all categories in one or two years and thereafter make available unused visas for "new seed" immigrants or other reallocation upon the triennial review.

As introduced, the Simon bill is preferable in that it provides 84,000 visas per year for the employer-sponsored categories. This number is slightly ahead of recent demand but remains inadequate to eliminate the current backlog, which exceeds 100,000 qualified personnel. AILA recommends that S. 448 further increase the allocation for employer-sponsored immigration or provide a special allocation of visas for backlog reduction, such as 30,000 visas per year for three years.

The Kennedy-Simpson bill increases the allocation for employer-sponsored immigration by only 1,200 visas until 1993. This allocation must be increased to avoid further backlogs and delay for needed international personnel.

EMPLOYER-SPONSORED CATEGORIES SHOULD BE RETAINED, BUT REVISED TO REFLECT THE NEEDS AND PRIORITIES OF U.S. BASED BUSINESSES

The Kennedy-Simpson bill revises the employer-sponsored immigrant categories by separating professionals with advanced degrees from all other professionals and by eliminating immigrant eligibility for low-skilled and "unskilled" workers, despite a certified labor shortage. Under S. 358, visas not used in the higher preference category for advanced degree professionals and exceptional ability aliens would not "spill down" to the lower employer-sponsored category, but rather to the "new seed" point system immigrants.

Due to the lesser proportion of professionals who hold advanced degrees, their separation into two preference categories could result in a net decrease in the number of visas available for employer-sponsored immigration, absent spill-down from the higher to the lower employer-sponsored immigrant category.

The Simon bill preserves existing employer-sponsored categories and thus would permit immigration of employees at all levels where qualified U.S. workers are not available.

> AILA supports the recommendation to revise the employer-sponsored immigrant categories and the annual allocation of visas as follows:
>
> > **50,000 for professionals and exceptional ability aliens** (revised 3rd preference) amended to include aliens of exceptional ability *in business* and *education* as well as in the arts and sciences;
> >
> > **40,000 for managers, executives, prominent business persons and specialized knowledge personnel** (new intermediate category), plus the unused visas from the preceding category, to elevate the immigration priority of senior and highly skilled business personnel who cannot qualify as professionals; and

> **30,000 for skilled and unskilled workers** (present 6th preference), plus unused visas from the two preceding categories, to permit continued immigration of needed personnel at various levels and among various industries.

We were pleased to see in Senator Kennedy's statement upon introduction of S. 357 his willingness to reconsider immigrant eligibility for low-skilled and unskilled workers where qualified U.S. workers are not available. We believe that continued immigration at all levels can provide an important supplement to the U.S. work force that need not contradict increased training and recruitment of U.S. workers.

CONGRESS SHOULD PROVIDE VISAS FOR JOB-CREATING INVESTORS

Both the Kennedy-Simpson and Simon bills would provide a limited number of visas for individuals who create at least 10 new jobs for U.S. workers through investment of at least $1 million ($500,000 in the Simon bill) in a new enterprise in the United States.

AILA supports immigration for job-creating investors and believes that a threshold investment of $500,000 is consistent with the establishment of an enterprise that creates 10 new jobs and would continue to prosper.

NON-SPONSORED, "NEW SEED" IMMIGRATION COULD BENEFIT THE NATIONAL INTEREST BUT DOES NOT SATISFY THE IMMEDIATE NEEDS OF U.S. BASED EMPLOYERS

AILA supports experimentation with new immigrant programs that would encourage increased access and diversity of "new seed" immigrants, with qualifications based on training, experience, and skills, such as proposed in S. 358.

While the non-sponsored, "new seed" immigrants cannot be expected to fill present vacancies as directly or effectively as qualified employer-sponsored immigrants, their vitality and initiative could provide many indirect benefits to our society and economy. AILA believes that employer-sponsored immigration--by a specific qualified immigrant for a specific job after labor certification--is the best way to determine and fill actual shortages in the U.S. work force.

THE LABOR CERTIFICATION PROCESS SHOULD BE STREAMLINED WITHOUT JEOPARDIZING THE RIGHT OF INDIVIDUAL EMPLOYERS TO TEST THE LABOR MARKET FOR A SPECIFIC JOB

The Kennedy-Simpson bill would modify permanent labor certification procedures by requiring *nationwide* recruitment to prove U.S. labor shortages, unless the Secretary of Labor determines that a different scope of recruitment is sufficient. S. 358 also allows the use of nationwide labor market statistics (without reference to a specific job) to determine the availability of qualified U.S. workers. If such statistics would result in denial of the labor certification, an individual employer would have to earn the right to conduct an individual labor market test for the specific job by first showing that this approach would be successful.

AILA believes that the scope of recruitment should relate to the nature and location of the job; the Labor Department must be given guidance as to when regional recruitment is appropriate. AILA supports the use of nationwide labor market information without reference to a specific job, provided U.S. employers are able to pursue individual labor certification without preconditions.

In addition, AILA recommends that the Department of Labor be urged to expand the schedule of pre-certified occupations in known job shortage fields. Although the Labor Department is cautious about its ability to accurately forecast the availability of willing, qualified U.S. workers, most parties involved in the permanent labor certification process know well certain occupations in which labor certification will surely be granted, although the full expense and delay of the present process must be completed. We believe such occupations are prime candidates for streamlined approvals, allowing U.S. employers to receive the services of qualified immigrants that much more quickly and freeing up Labor Department personnel for more rigorous attention to their other responsibilities in other cases.

Finally, AILA believes that further changes or improvements to the permanent labor certification process should be preceded by comprehensive information and analyses. Therefore, we support funding for a comprehensive study of the permanent labor certification program by the Labor Department with input from other relevant departments of the Administration, as well as from the public through open hearings, that would result in proposals to overhaul and further streamline labor certification.

PERIODIC REVIEW OF IMMIGRATION POLICY SHOULD BE MANDATORY, BUT CHANGES TO THE LAW SHOULD NOT BE RELEGATED TO A DEFAULT MECHANISM

AILA strongly supports the provisions of S.358 and S.448 that provide for an annual review of the social, economic, and environmental impacts of America's immigration laws and policy and for a triennial review with recommendations on the national levels of immigration. The Kennedy-Simpson bill requires annual review of the immigration system and its social and economic effects. Beginning in fiscal year 1993 and for every three years thereafter, S. 358 also requires the President to make a recommendation to Congress regarding the numerical limits on family and non-family immigration. Absent affirmative action by Congress, this recommendation would automatically become law if the change was less than 5 percent of the existing level.

AILA believes that mandatory, periodic review of U.S. immigration policy is in the national interest. The triennial report and recommendation by the Administration provides both a mechanism and a forum to ensure that flexibility is maintained and that our law and policy remains responsive to evolving needs and priorities.

However, AILA cannot support the provision in S.358 that would permit an automatic or mechanistic change in annual immigrant admissions or the preference categories whenever Congress is not able to act on such recommendations. In our opinion, the difficulty that Congress may occasionally have in enacting immigration legislation reflects the serious thought and consideration the subject deserves. We believe that only the regular legislative process will ensure the national interest in setting annual immigrant admissions levels.

CONCLUSION

The American Immigration Lawyers Association again commends Senators Kennedy, Simpson, and Simon for initiating discussion and debate over U.S. immigration policy.

The Kennedy-Simpson bill, S.358, contains thoughtful and innovative proposals that provide a useful first step in addressing modern reform. Many of its provisions are important improvements that should be enacted. However, we believe that S.358 must be further amended to better serve the national interest. We urge Senators Kennedy and Simpson to consider changes to their proposal, and we hope to work with them toward that end.

The Simon bill is consistent with many of the principles that we believe should guide reform of legal immigration law and policy. Many of its provisions should be enacted as well. The Subcommittee should seriously weigh the differences between these two bills and work to approve a bill that is consistent with longstanding principles of U.S. immigration policy. We sincerely hope that your choices will reaffirm family unification as a primary goal and family or employer sponsorship as a primary method of selecting immigrants to join our nation.

Thank you again for this opportunity to present the views of the American Immigration Lawyers Association.

Respectfully submitted,

WARREN R. LEIDEN
Executive Director

POPULATION-ENVIRONMENT BALANCE

1325 G Street, N.W. Suite 1003, Washington, D.C. 20005-3104 (202) 879-3000

TESTIMONY OF

ROSE M. HANES, EXECUTIVE DIRECTOR

POPULATION-ENVIRONMENT BALANCE, INC.

Submitted

to the

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

MARCH 3, 1989

Population-Environment Balance, Inc. (formerly The Environmental Fund) is a national, non-profit membership organization dedicated to maintaining and improving the quality of life in the United States through population stabilization.

Garrett Hardin (Honorary Chairman), Directors: Virginia Abernethy, David F. Durham, Helen Graham, Lindsey Grant

Population-Environment Balance is pleased to submit its views before the Subcommittee on Immigration and Refugee Affairs. BALANCE is a national non-profit membership group that represents increasing numbers of people concerned with the way population growth is adversely affecting our environment. An increasing population is the underlying cause of many problems, ranging from traffic jams, water shortages and loss of farmland to overburdened public and social services.

BALANCE proposes dealing directly with the primary cause of many environmental problems by mobilizing public support for measures that would encourage a stabilized population in the United States.

A stable U.S. population size is essential if we are to prevent further deterioration of the very system that supports us -- our environment and natural resource base. We cannot go on pretending to plan for the material and social needs of our citizens if we do not also plan to limit the large number of people who are being added to our country every year.

Members of BALANCE recognize -- as did the 1972 Rockefeller Commission Report on "Population Growth and the American Future" -- that every major problem facing the U.S. as a nation and humanity as a whole becomes more difficult to solve as population increases. The fact is that our efforts to mitigate or accommodate to the side effects of population increase are costly false solutions which merely postpone the day of reckoning.

We must therefore address the primary cause of many of our environmental and social problems. That is, we must directly address the problem of excessive population growth. BALANCE is pleased that, after a great deal of work that led to passage of illegal immigration reform legislation, the Immigration Subcommittee of the Senate is now examining the crucial issue of legal immigration, which has a significant impact on our population-caused problems.

Legal immigration accounts for more than one-quarter of annual U.S. population growth. We need to examine the number of immigrants that we continue to accept into this country if we are to maintain our quality of life and plan responsibly for the amount and kinds of services we will need to provide our own citizens.

Our own population is already growing due to natural increases. But what is equally alarming is that, as a result of our high per capita use of resources, we are already straining the population carrying capacity of the United States and contributing disproportionately to problems such as global warming and acid rain.

Our habits of consumption are often attacked as being voracious and wasteful. Environmentalists plead with us to "change our ways," and in fact have had a significant impact on our thinking and behavior. But the real question is whether or not excessive population growth, compounded by immigration, will defeat any efforts to change our behavior as a way of protecting our environment and maintaining our quality of life.

The realities of our resource use and the vulnerability of our environment need to be considered when determining the number of immigrants that we allow into our country. Our environment is "the only one we have" -- our sole supporter, so to speak. If we do not take care of it, will it be able to take care of us?

The fact is that the United States is exceeding its population carrying capacity. Our carrying capacity may be difficult to define in terms of precise numbers, but a reading of the United States' and the earth's overall health can be made in other ways. It is obvious for all to see that many of the United States' environmental and social problems -- from pollution and traffic jams to homelessness and unemployment -- are caused or worsened by population growth.

On a larger scale, last year's drought plus evidence of the greenhouse effect, acid rain, deforestation and ocean pollution are clear indications that the global environment is increasingly adversely affected by our growing population's demands on the ecosystems of our finite earth. All of these phenomena further reduce our environment's carrying capacity. Thus, population stabilization in the United States, as well as abroad, is a critical factor in protecting the environment and ensuring the preservation of a livable planet.

Global population is growing by 87 million per year -- the equivalent of adding to the world, in three short years, a population the size of the entire U.S. Between 1974 and 1987 world population increased from four billion to five billion and is expected to increase by another billion by the year 2000. Most of this growth is taking place in Third World nations least able to provide jobs, health care, adequate food and water and opportunities for personal development. This explosive world population growth has a substantial direct impact on the U.S., as hundreds of thousands of immigrants seek a new life in our country.

The result is pressure on our own ability to provide jobs, health care and educational opportunities for our own citizens. If we truly want to help our own poor and homeless, should we be bringing in their competition? If we are to take seriously our problems regarding deteriorating infrastructures, overburdened public facilities, budget deficits and strained social services, we must question the numbers of immigrants we add to our own increasing population base. Most immigrants are relatively unskilled and compete with our own unemployed and underemployed for jobs.

The situation in Third World countries experiencing explosive population growth is not only extremely sad, but outright alarming. It is tempting to want to help these countries by welcoming their people into our own nation, which might not appear to be in as great a danger. But with our environment being threatened by acid rain, droughts, overflowing landfills, air and water pollution, and many other problems, the situation will only grow sadder and the choices will only grow tougher.

In fact, we are not really helping those in other countries by encouraging their citizens to escape to the United States and thereby avoid facing the problems in their homelands. We are only joining with them in denying that there is a problem, and are hampering any attempts to find a solution. How long will we be able to act as a safety valve? We should begin now by setting the example for others of stabilizing our own population.

A report released last year by the Center for Immigration Studies concludes that immigration to the U.S. during the 1980s will meet or exceed the historic high of nearly nine million immigrants set in the early 1900s. The frightening difference this time is that unlike the large wave of immigration at the turn of the century, when the U.S. population stood at 76 million people, we now have 247 million and the United States is still growing, by about 2.6 million people annually -- almost equivalent to adding another Los Angeles every year.

Though the fertility rate among American women is low, the large number of baby-boom generation women currently in their childbearing years will assure a high growth rate for years to come. In the mid-1950s, approximately 47 million American women had an average of 3.7 babies each. The average woman in this country now bears 1.8 children, but there are over 70 million women in their childbearing years.

The states currently growing the fastest -- California, Texas, and Florida -- will continue to be burdened by population growth more rapid than they can readily absorb. And these same states are disproportionately affected by immigration.

For example, if the United States does not act to stabilize population, California's population is projected to grow to 37.3 million by 2010, up from its 1985 level of 26.4 million, which represents increased growth of 40 percent in just over 20 years. Roughly one-fourth of the 600,000 legal immigrants entering the U.S. each year settle in California, adding some 160,000 people to those already seeking jobs and housing in the state and, of course, requiring transportation.

The once magnificent Texas landscape is being systematically destroyed by the pressures of too many people. Off-shore spills, off-ship dumping, industrial discharge and sewage runoff have closed beaches, degraded wetlands and destroyed wildlife.

Texas' current population of about 17 million is expected to surpass 30 million by 2035 and 2/3 of this increase will be immigrants from foreign countries who arrived after 1985 and their descendants, unless we reduce legal immigration and stop illegal immigration.

Florida is suffering widespread environmental problems that adversely affect Floridians on an everyday basis. Groundwater contamination from commercial and residential development, industrial and toxic wastes, agricultural chemical runoff, and inadequate sewage treatment facilities is rapidly becoming a major problem. Much of Florida's water supply is serviced by one large aquifer. If one area is contaminated, the pollution can spread to other areas.

Florida's water supply is further threatened by untreated waste -- the result of population-fueled development -- that filters into the aquifer. On-site septic systems are inappropriate in Florida because of its sensitive soil and shallow layer of topsoil. Effluent can leach too easily and filter into the aquifer. Large-scale contamination of the water supply could put the state in the position of revisiting an era when lack of proper sanitation and clean water caused serious public health problems from water borne diseases.

Florida also faces the serious problem of loss of prime agricultural land, wetlands, and forested areas. Florida currently is losing 350,000 acres of prime farmland annually. At that rate, it is estimated that within 10 years, Florida will have paved over all of its highly profitable agricultural land and the nation will lose its prime supplier of winter vegetables and citrus crops.

All of these problems are directly or indirectly caused by increasing population pressure. And these side effects of overpopulation, although pronounced in these three states, are certainly not limited to them.

Communities across the country are experiencing problems related to overcrowding. One of BALANCE's goals is to help these local areas realize the connection between their problems of increased growth and our lack of national policies that would encourage population stabilization.

And although most immigrants settle in cities, our rural areas, too, are increasingly subjected to the strains of more and more people. The effects of increased demands in these areas might now be less obvious, but are equally frightening.

According to an American Farmland Trust project, Farming on the Fringe, one-half of the nation's market value of agricultural production is produced in counties that are on the urbanizing fringe of growing metropolitan areas. The conversion of this land for purposes other than agriculture is taking place rapidly as population pressure forces people to spread farther and farther from the cities to find affordable homes, unclogged traffic, fresh air and open space.

Recent Census Bureau projections indicate that the current U.S. population of 247 million is expected to grow to nearly 302 million by 2038, according to its mid-range estimate. But the Bureau also reminds us that because projections are given in ranges, the actual total U.S. population could be as low as 264.5 million in 2020 or as high as 501 million -- and still growing-- in 2080.

With such a wide, and therefore hardly reliable, range of projections, BALANCE invites the members of the subcommittee to conduct their own informal surveys.

Take a look around you. How many buildings do you see going up? How many trees are going down? How many articles do you see in the newspaper every day that deal with traffic jams, overflowing landfills, housing prices, crime, pollution, loss of farmland and the homeless?

We are already overwhelming our local and national abilities to clean up the waste we have currently produced. We are already losing open space and wildlife habitat -- at staggering rates-- to make way for townhouse complexes, shopping malls, and more freeways.

With the population of the world increasing by 87 million per year, and most immigrants wanting to come to America, will accepting more people into our country actually help us? Or them?

As we walk and drive past our own homeless citizens, can we really say that we have the capacity to accept millions more into our country -- to provide homes, cars, roads, and schools for these people -- but not for ourselves? We must think about what these numbers truly mean for us.

It is clear that we need to carefully plan for the additional numbers of immigrants allowed to settle permanently in our country. How do we determine the number?

In order to be realistic in assessing this number, BALANCE advocates placing a ceiling on legal immigration -- the one factor in our growth where we can have a significant effect-- that would lead toward population stabilization in the United States. This requires adopting a lower cap that would help our country achieve "replacement level immigration." That is, the number of people entering our country would roughly equal the number of those voluntarily leaving.

Because approximately 200,000 Americans are estimated to leave the United States in a given year, and because we have are facing tougher and tougher choices in providing for the welfare our own citizens, an equal number of immigrants -- 200,000-- should be allowed to enter the country.

This means that we must include all family members under the ceiling, so that we prevent the process of chain migration which, if allowed, will indirectly but significantly destroy our efforts to plan realistically for our future needs.

And refugees, too, must be included in the ceiling. As painful as it is to turn away those in need, the situation will only become more painful if we ignore what is happening to our environment and encourage more people to join us in challenging it. The result will be an even graver situation in the form of an unsafe environment that will have been robbed of its ability to provide us with basic needs. Other countries need to take on more of the burden of providing homes for our world's refugees.

We need to encourage those from other countries to take responsibility for their own numbers. We need to send a message that says we have confidence in them to deal directly with their problems. Providing false hope helps no one and only serves to avoid facing the root of the problem. We have the opportunity to set an example by substantially reducing and limiting legal immigration.

An all-inclusive ceiling of 200,000 will send a clear message to the world that we are serious about working to alleviate social and environmental problems.

And it will send a message to our own people that says, no, we haven't forgotten you.

Thank you for this opportunity to share the views of the Board and members of Population-Environment Balance.

**NATIONAL
ASSOCIATION
of
COUNTIES**

*440 First St. NW, Washington, DC 20001
202/393-6226*

March 14, 1989

The Honorable Edward M. Kennedy
Chairman
Senate Judiciary Subcommittee on
Immigration and Refugee Affairs
SD 518 Dirksen Senate Office Bldg
Washington, DC 20510

Dear Senator Kennedy:

The National Association of Counties appreciates the opportunity to provide written comments for the record for the legal immigration reform hearing held on March 3, 1989. While NACo has not taken a position on S. 358, we wanted to call your attention to the much broader issue of the relationship of many different categories of aliens and federal funding issues. In our view, the distinctions have blurred between different refugee and alien groups. The use of statuses such as parolee, asylee, extended voluntary departure and sponsored alien, to name a few, affect local governments' financial ability to assist persons admitted to this country.

In the early 1980's, most individuals admitted to the U.S. were either lawfully admitted for permanent residence, refugees or Cuban Haitian Entrants. In the case of the latter two categories, federal assistance for resettlement has been available, although on a steadily decreasing basis. This assistance has enabled recent arrivals to begin adjusting to their new life in the United States.

However, state and local governments are now resettling an increasing number of individuals needing services who do not qualify for programs such as those available under the Refugee Act. Many of them have needs for assistance in adjusting to the U.S. before they can become productive economically. Without appropriate job training, social services and English classes, these individuals all too often become dependent on state and local public assistance. The recent arrivals of Nicaraguans and some of the Soviet Americans paroled into the United States are prime examples of groups admitted by the federal government who place strains on the resources of the communities accepting them.

So, too, have we often found sponsored aliens becoming dependent on state or local welfare because their sponsors have not met their financial responsibilities.

We appreciate the foreign policy reasons for admitting individuals into the United States. Those decisions also have state and local impacts. Whether a review is done during the debate on revising the legal immigration system or through the Refugee Act reauthorization, we urge you to examine the current methods of admitting individuals into the U.S. and their possible need for initial resettlement services.

Sincerely,

John P. Thomas
Executive Director

JPT/tj

A
A
U

Association of American Universities

President

March 20, 1989

The Honorable Edward M. Kennedy
Chairman
Subcommittee on Immigration and
 Refugee Affairs
Committee on the Judiciary
315 Senate Russell Office Building
Washington, DC 20510

Dear Senator Kennedy:

On behalf of the Association of American Universities, the National Association of State Universities and Land-Grant Colleges, and the National Association for Foreign Student Affairs, we wish to submit the enclosed statement as part of the record for the March 3 hearing on legal immigration reform. The statement proposes a small modification in existing immigration policy to eliminate delays which are increasingly impeding access by U.S. universities to the international pool of exceptional faculty.

Our nation relies heavily on these institutions to conduct the research and advanced education necessary to maintain international leadership in science, technology, and scholarship. To maintain their preeminence, universities, in turn, must be able to recruit the best faculty from an international pool of teachers and scholars. Particularly in engineering, mathematics, and related fields in which the number of U.S. doctorates has fallen, effective access to foreign faculty is critical to maintaining competitive academic programs. As the international competition for the most eminent scholars intensifies, foreign scholars are less willing to accept offers from U.S. universities that cannot offer a firm starting date.

The faculty involved are only those for whom a thorough search has been unable to produce an equally qualified American. Thus, although the number of persons involved is small, its impact on university teaching and research programs is large.

The enclosed discussion of the issue suggests a possible solution similar to the provision of temporary visas for fiancés and fiancées. Creation of a temporary educational worker category could permit foreign nationals who emerge from a search for a tenure-track position as the best qualified person to enter this country while the labor certification is being completed.

We also have enclosed legislative language for the "O" visa category that could be inserted as an amendment to immigration legislation such as the bills on legal immigration reform recently introduced in the Senate (S. 358 and S. 448).

Thank you for your consideration of our views. We would be pleased to discuss this proposal further with you and other members of the Subcommittee.

Sincerely,

Robert M. Rosenzweig

Robert M. Rosenzweig

Enclosures

cc: Jerry Tinker
Kay Anske
Dick Day

AN URGENT NEED: A NEW VISA CATEGORY FOR HIRING FOREIGN FACULTY

The United States depends on its universities and colleges to conduct programs of research and advanced education essential to world leadership in scholarship, science, and engineering. The quality of faculty will determine the quality of those programs. The preeminence of our university faculty is recognized worldwide. That quality is both the reason for, and the beneficiary of, the ability of our institutions to recruit successfully the best faculty members from an international pool.

In addition to the long-term maintenance of quality by recruiting from an international pool of talent, universities also will need effective access to foreign faculty to combat shortages of strong candidates for faculty positions in a number of key fields such as engineering, mathematics, the physical sciences, and business administration. Both universities and the federal government recognize that these shortages must be eliminated by reversing the steady decline in U.S. Ph.D. recipients. Universities are providing increased faculty salaries and expanded recruitment and support of graduate students as incentives to encourage a greater portion of talented U.S. college graduates to enroll in doctoral programs. The federal government has expanded support for graduate study through the National Science Foundation, the National Institutes of Health, the Department of Defense, and the Department of Education.

Unfortunately, these initiatives will take a number of years to achieve results: the average time-to-degree in most of these fields is from seven to ten years. Thus, both to maintain quality and to combat shortages, universities must have access to exceptionally talented foreign faculty. This need has been recognized for some time with labor certification procedures that provide a special handling provision for teaching faculty from abroad under section 212(a)(14) of the Immigration and Nationality Act.

Current immigration procedures are increasingly impeding recruitment of faculty from abroad. Why does this happen? Rigorous faculty searches in the U.S. typically require several months to complete. Therefore, an offer of a long-term faculty appointment commencing with the fall academic term can rarely be extended before the previous winter or spring. If an academic department extends an offer for a tenure-track faculty position to a foreign candidate, the institution must prepare a labor certification to be approved by the Department of Labor before the applicant may initiate a petition for permanent residency under the third preference category. In almost all cases, labor certifications are approved for foreign faculty members but take six to twelve months to be approved.

Added to the period of time needed for labor certification approval is the current backlog of almost one year in the third preference category. The combination of these waiting periods means that it is virtually impossible for a candidate to obtain an immigrant visa during the six-to-eight-month time frame when an institution makes the hiring decision and the candidate is needed on campus. Recent projections from the

State Department indicate that this backlog is likely to continue and perhaps even worsen in the months ahead. Several universities have lost promising foreign candidates due to the extreme delays imposed by the system. For example, the University of California at Berkeley recently lost an outstanding physicist from the Federal Republic of Germany, who had initially accepted their offer and then went elsewhere when confronted with extensive and uncertain delays in his appointment.

A solution to this problem lies in the creation of a new temporary visa category–the "O" visa–which would be similar to the current "K" visa for fiancés and fiancées of American citizens. This new visa type would allow immediate entry into the United States for foreign faculty members, provided that the inviting institution is able to document both a rigorous academic search producing no equally qualified American and the likelihood of subsequent approval of a labor certification.

The proposed O visa category would not significantly alter the number of presently existing third preference immigrant visas granted to foreign faculty. Instead, it would simply allow for immediate entry in a temporary visa category. The faculty member would then be able to begin his or her teaching responsibilities while completing the process of obtaining permanent residency. The O visa would give the faculty member a period of up to 24 months to complete this process, which should be sufficient under present conditions. Thus, our proposal is focused on improving the process by which a faculty member is brought to the United States, not on altering the number who come.

The number of aliens eligible to benefit from this new visa category would not likely exceed 3,000 each year. But the impact on the quality and continuity of university programs of teaching and research would be substantial.

March 17, 1989

Statutory Amendment to Facilitate Timely Hiring of Qualified Foreign Faculty

Proposed Legislative Language

Subsection (a)(15) of Section 101 of the Immigration and Nationality Act (8 USC 1101) is amended by changing the period at the end of subparagraph (N) to a semicolon and by adding the following new subparagraph:

> "(O) An alien who has been offered and has accepted a permanent position as a full-time faculty member at an accredited college or university in the United States pursuant to a competitive recruitment and selection process, for whom the Secretary of Labor has been requested to make a determination and certification as provided in Section 212(a)(14) of this title, and who seeks to enter the U.S. solely to commence employment in such position, and the alien's spouse and minor children accompanying or following to join the alien."

JOINT STATEMENT OF

ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (NEW YORK)
ASIAN LAW ALLIANCE (SAN JOSE)
ASIAN LAW CAUCUS (SAN FRANCISCO/OAKLAND)
ASIAN PACIFIC AMERICAN LEGAL CENTER OF SOUTHERN CALIFORNIA
NA LOIO NO NA KANAKA - LAWYERS FOR THE PEOPLE OF HAWAII
NIHONMACHI LEGAL OUTREACH (SAN FRANCISCO)

ON S. 358
AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT
(LEGAL IMMIGRATION REFORM)

BEFORE THE UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

MAY 4, 1989

CONTACTS:
WILLIAM R. TAMAYO
ASIAN LAW CAUCUS
1322 Webster St.
Suite 410
Oakland, California 94612
Phone: (415) 835-1474
FAX: (415) 763-6978

STANLEY MARK
ASIAN AMERICAN LEGAL
DEFENSE AND EDUCATION FUND
99 Hudson St., 12th Floor
New York, New York 10013
Phone: (212) 966-5932
FAX: (212) 226-1066

SUMMARY

S. 358 amending the Immigration and Nationality Act (INA) places an unpredecented cap on all family reunification visas including immediate relatives, and excludes under the 2nd and 5th preferences (family) persons currently eligible for visas. If passed, S. 358 will eliminate family reunification under the immigration laws except for those who are immediate relatives of United States citizens. At a time when Asians have yet to overcome the impact of decades of racially-based exclusion laws, and when anti-Asian, bigoted sentiments oftentime expressed through anti-Asian violence are on the rise, S. 358 can only be viewed as another attempt (whether intended or unintended) to curb immigration based on racially-based and arbitrary premises.

We oppose any cap on family reunification, any reduction of the 2nd and 5th preference categories, and any delegation of Congress' authority to the Executive Branch in determining the allocation of visas. We support the concept of increasing immigration through the independent category but oppose the use of English-speaking ability in the point system.

There is no assurance that S.358 will in fact stimulate immigration from "underrepresented areas", e.g. Western Europe. But what is assured under the bill is the prolonged and undue separation of families from Asian countries. For the reasons discussed below we object to S. 358 and urge its rejection.

INTRODUCTION

This joint statement is submitted on behalf of six Asian-American legal organizations to describe our opposition to S.358 in a historical context and on a policy basis that underscores its adverse impact upon Asian and Pacific American families. These organizations have a combined history of 70 years of services to and advocacy for the Asian American community.[1]

For decades, the views of Asian Americans have been largely unsolicited and ignored, often relegated to the shelves of irrelevancy by policy makers and legislators who perceive this community to be uninterested, miniscule, and powerless. Shaped in part by the decades of racism and indifference these perceptions remain, but are nevertheless being challenged by a community increasingly aware of its history in the United States and of its mission to defend and expand its rights.

The introduction of S. 358 has challenged the Asian American community and its representatives in Congress to pierce through the negative perceptions and racist legacy that serve as the fundamental underpinnings of the bill. The organizations submitting this statement unequivocally believe

---

1. The National Lawyers Guild National Immigration Project endorses this joint statement. The NLG is a 52 year old organization committed to expanding and protecting the rights of individuals. Its National Immigration Project, established in 1973, is a network of hundreds of lawyers and legal workers who represent immigrants and refugees in matters of immigration law and policy.

that passage of S. 358 would only serve to further separate Asian families as prior exclusion laws did, to reinforce the negative stereotypes of Asian Americans, and to give Congressional imprimatur to a increasingly hostile and violent anti-Asian fervor in the country. We ask the members of Congress to reject this legislation.

I. INTEREST OF THE ORGANIZATIONS

The ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (AALDEF) was formed in 1974 to provide community education and advocacy, impact litigation, and legal services to the Asian American community in the areas of immigration, civil rights, housing and land use, employment and labor rights, and voting rights. AALDEF's immigration committee composed of attorneys from the East and West Coasts and Hawaii, has monitored Congressional proposals for legal immigration reform including S. 1611 (introduced in 1987) and S. 2104 (introduced in 1988) which S. 358. AALDEF has opposed each of these bill due to their detrimental and discriminatory impact upon the rights of Asian Americans to reunit their families.

The ASIAN LAW ALLIANCE (ALA) was formed in 1977 to provide services, community education, advocacy for the Asian American community in the San Jose, California area. With the growing Asian population in the Silicon Valley/Santa Clara County area, ALA has played an instrumental role in representing the concerns of Asians in matters involving immigration law and policy, housing, family law, and civil rights.

The ASIAN LAW CAUCUS was formed in 1972 in the San Francisco/Oakland area to provide services, community education, impact litigation, and advocacy to the third largest Asian American community in the United States, with an emphasis in the areas of immigration and nationality law, employment/labor, housing, and civil rights.

The ASIAN PACIFIC AMERICAN LEGAL CENTER OF SOUTHERN CALIFORNIA, formed in Los Angeles in 1983, provides multilingual legal assistance, information and civil rights support for low-income persons of Asian and Pacific Island origin. The Legal Center's main areas of practce are in immigration law, family law, domestic violence, and civil rights.

NA LOIO NO NA KANAKA - THE LAWYERS FOR THE PEOPLE OF HAWAII is a non-profit organization established in 1983 for the purpose of providing access to legal services for the poor and advocacy in the public interest. It provides representation for indigent immigrants in deportation, exclusion and political asylum cases, and for those whose civil rights have been violated.

NIHONMACHI LEGAL OUTREACH founded in San Francisco in 1975 delivers services to the low-income, largely immigrant, Asian-Pacific American community emphasizing issues of family law and domestic violence.

II. HISTORICAL BACKGROUND

Our strong opposition to S. 358 stems from the historical legacy of discriminatory and exclusionary immigration laws that were directed explicitly against Asian immigrants as well as to its specific provisions that result in a disparate and adverse impact on Asian Americans. The impact of S. 358 on the Asian American community can neither be understood nor appreciated without an examination of the historical treatment of Asians under United States immigration laws and policy. Prior to the racially-based exclusion laws of the latter 19th and early 20th centuries, immigration to the United States was basically unfettered.

A. The Racially Discriminatory Impact of Early Immigration Laws.

Like millions of European immigrants, thousands of Chinese migrated to the United States in the mid-19th century in search of employment and fortune. However, downturns in the U.S. economy, combined with centuries of discrimination enforced by law and social practice against Blacks and Native Americans, made it all too easy for displaced white workers to blame the Chinese for their misery, and to have their concerns addressed by a Congress hostile to Chinese.[2] Congress responded by passing the Chinese Exclusion Act of 1882[3], suspending immigration of Chinese laborers for 10 years. The Act was extended in 1892 and 1902, and in 1904 it was extended indefinitely.[4] In all, the Act stood as a bar to Chinese labor immigration for over sixty years. When the Act was finally repealed in 1943,[5] only 105 Chinese were permitted to immigrate to the United States annually. The same measure, declared Chinese eligible for naturalization.

---

[2] The period surrounding the Chinese Exclusion Act and other anti-Asian immigration laws is described in The Tarnished Golden Door: Civil Rights Issues in Immigration, a Report of the United States Commission on Civil Rights, (1980) p. 8-10, reproduced and attached as Appendix 1. (hereinafter "Tarnished Golden Door")

Consistent with the anti--Asian sentiment of the times, Japanese nationals, many of whom were laborers in California and Hawaii, were effectively barred from immigrating into the United States through the Gentleman's Agreement of 1907.[6] Congress further restricted Asian immigration through the Immigration Act of 1917[7] (passed over the veto of President Woodrow Wilson) which among others created "the Asia-Pacific Triangle, an Asiatic barred zone, designed to exclude Asians completely from immigration to the United States."[8,9]

---

3. Ch. 126, 22 Sts.58 (1881)
4. see fn.1
5. Ch. 344, 57 Stat. 600 (1943)
6. U.S. Department of State, Paper Relating to the Foreign Relations of the United States 1924 (1939), Vol. 2, p. 339. See Higham, American Immigration Policy in Historical Perspective, 21 Law & Contemp. Probs. 213, 227 (1956)
7. Act of Feb. 5, 1917, 39 Stat. 874
8. see fn.1
9. "Not excluded by the 'Asiatic Barred Zone' were the Japanese, because growers in California had determined that they needed to import Japanese workers to harvest the sugar beet crops. During the first decade of the twentieth century the northern California fields were harvested almost exclusively by Japanese, while in south California the field worers were 80 percent Mexican." National Lawyers Guild, Immigration Law and Defense, Sec. 2.3 at 2-4. The Gentlemen's

(emphasis added) (The 1917 Act also required a literacy test for immigrants, a feature previously rejected by Presidents Cleveland, Taft and Wilson.[10])[11]

Following the 1917 Act and the conclusion of World War I, immigration began to increase from the war-devastated countries of Europe. Congress reacted with a series of racially-biased restrictions on immigration, culminating in the national origins quota system.[12] The 1924 Act[13]

Agreement of 1907, however, had already effectively limited Japanese immigration.

[10] Gordon and Mailman, Immigration Law and Procedure, Sec. 2.02(3) (1988)

[11] Reflecting the tenor of that period, the Senate while debating the Immigration Act of 1917, approved an amendment (29-25) to exclude "all members of the African or black race" from admission to the United States. 52 Cong. Rec. 805 (1914). Fortunately, the House defeated the amendment by a vote of 253 to 74, after intensive lobbying by the NAACP. See Crisis, vol. 9 (February 1915), p. 190.

[12] Quota Law of 1921, Act of May 19, 1921, 42 Stat. 5.

[13] Act of May 24, 1934, 43 Stat. 153. The national origins formula of this act resulted in a sharp curtailment of immigrants from southern and eastern Europe and limited immigrants to 150,000 per year. (Gordon and Rosenfield, supra. Sec. 2.02 at 2-7,2-8. "The obvious purpose of the quota was to preserve the northern and western European 'character' of the United States population. For example, Great Britain, with 2 percent of the world's population, received 43 percent of the quota". Immigration Law and Defense, supra, Sec. 2.3, at 2-4. The clear intent of the quota law was described in the minority report:

> The obvious purpose of this discrimination is the adoption of an unfounded anthropological theory that the nations which are favored are the progeny of fictitious and hitherto unsuspected Nordic ancestors, while those discriminated against are not classified as belonging to that mythical ancestral stock. No scientific evidence worthy of consideration was introduced to substantiate this pseudoscientifc proposition. It is pure fiction and the creation of a journalistic imagination....

maintained the 1921 act's system, and barred all aliens ineligible for citizenship from entering the United States. Since the United States Supreme Court had declared Japanese ineligible for citizenship in 1922,[14] this latter provision slammed the door on Japanese immigration. The 1924 Act, however, permitted natives of the Western Hemisphere to enter without numerical limitation.

Reminiscent of the economic and political forces surrounding the passage of the Chinese Exclusion Act, displaced white citizen farmworkers on the West Coast during the Depression blamed Filipinos (and Mexicans[15]) for their

---

> The majority report insinuates that some of those who have come from foreign countries are non-assimilable or slow to assimilate. No facts are offered in support of such a statement. The preponderance of testimony adduced before the committee is to the contrary.

As reprinted in the legislative history of INA (1952) U.S. Code Cong. and Ad. News 1653, 1668.

[14] Ozawa v. United States, 260 U.S. 178 (1922) [Japanese ineligible to become naturalized citizens since Congress had restricted eligibility for naturalization to free white persons (ch.3, 1 Stat. 103 (1790)) and to persons of African nativity or descent (Rev. Stat. Sec. 2169 (1875)]. See, Tarnished Golden Door, at 10, fn. 38

[15] The government's efforts to curb Mexican immigration is described by the U.S. Commission on Civil Rights as follows:

> Spurred by the economic distress of the Great Depression, Federal immigration officials expelled hundreds of thousands of persons of Mexican descent from this country through increased Border Patrol raids and other immigration law enforcement techniques. To mollify public objection to the mass expulsions, this program was called the "repatriation" campaign. Approximately 500,000 persons were "repatriated" to Mexico, with more than half of them being United States citizens.

Tarnished Golden Door, supra, at 10. See Appendix 1.

misfortune and lobbied Congress for restrictive immigration legislation. The Philippine Independence Act of 1934 (Tydings-McDuffie Act), stripped Filipinos of part of their status as noncitizen nationals of the United States and regarded them as aliens for most purposes under the immigration laws.[16] That same act also limited Filipino immigration to 50 per year, thereby effectively operating as an exclusion act. This was eventually raised to a statistically insignificant 100 per year through the War Brides Act of 1945.[17]

Subsequent legislation did little to overcome the inherently racist and discriminatory barriers established by Congress. While the McCarran Walter Act of 1952 (Immigration and Nationality Act),[18] established the reunification of families as one of the principles for immigration policy[19] and allegedly removed race as a factor in admissions,[20] the Act failed to remove the national origin quota system.[21]

---

[16] Gordon and Rosenfield, Immigration Law and Procedure, Sec. 4.5d. (1976)

[17] Ch. 591, 59 Stat. 659 (1945)

[18] Ch. 477, 66 Stat. 163 (1952)

[19] Tarnished Golden Door, supra, 11

[20] id., 11

[21] The bill was vetoed by Presdient Truman, who castigated the national origins quota system which it carried over from the 1924 Act, criticized the severity of the grounds prescribed for exclusion, deportation, and denaturalization, and opposed the limitations on the authority to alleviate hardships.

Gordon and Mailman, supra, 2-9. Congress overrode the veto, enating the law as Pub. L. 414, 82d Cong., 2d Sess.

"The long term consequence of these restrictive immigration measures was to end more than one hundred years of virtually unimpeded immigration into the United States. Only one-half million persons immigrated to the United States between 1931 and 1940, compared with 8.8 million arriving between 1901 and 1910, and 5.7 million between 1911 and 1920 (largely from Western Europe)."[22]

The 1965 Amendments: An Attempt to Eliminate Racism from the Law

The 1965 amendments to the Immigration and Nationality Act created the current preference system based on family relationships and selective skills. They were intended to remedy the blatantly discriminatory and racist impact of the past laws, (a goal endorsed by Presidents Kennedy and Johnson)[23] and thus abolished the national origins system and the Asiatic barred zone.[24] The amendments specifically abolished the special immigration restrictions relating to Asians and proscribed immigration discrimnations because of race, sex, nationality, place of birth, or place of residence.[25] This reform legislation did not adversely affect European immigration but created a diversity of Asian and Latin American immigrants who had been historically denied equal access and opportunity to immigrate to the United

---

22. Immigration Law and Defense, supra, §2.3, at 2-4,2-5. citing Immigration and Naturalization Service, 1975 Annual Report, p. 31. (emphasis added)
23. Gordon and Mailman, supra, §2.04[3]
24. Pub. L. No. 89-236, 79 Stat. 911 (1965)
25. Gordon and Mailman, supra §2.04[3] at 2-18.

States. These amendments, however, did not go into effect until June 30, 1968.[26] Thus, not until 86 years after the passage of the Chinese Exclusion Act of 1882 could Asians begin to immigrate into the United States in any significant numbers.

Despite the intent to remove discriminatory and arbitrary barriers, the 1965 amendments, however, do effectively discriminate against immigrants from the world's most populous nations. The measure placed a numerical limitation of 20,000 visas upon family preference immigration from any single foreign state (Sec. 202(a) of the INA). China, comprising one-fourth of humanity is subject to the same annual limitation of 20,000 as the least populated nation of the world.

III. THE PRESENT PICTURE

The current immigration picture is the product of decades of racist, exclusionary, and unduly restrictive laws and policies, and of the coinciding attempt of immigrants from Asia and Mexico in particular to overcome the discriminatory barriers. Moved by historical motivators such as family reunification and improved employment, hundreds of thousands have sought and continue to seek entry into the U.S. This continuing demand is best reflected in the current backlogs in immigrant visas from Asian countries and in the numbers of persons from these countries registered for visas abroad. For example, in May 1989[27] the approximate waiting periods under the preference system for major Asian sending countries were as follows[28]:

---

[26] Immigration Law and Defense, supra, §2.3 at 2-4.

---

[27] U.S. Department of State, Visa Bulletin, Vol VI, No. 21.

[28] Sec. 203(a) of the Immigration and Nationality Act (INA), as amended, prescribes preference classes for allotment of immigrant visas as follows:

First preference (unmarried sons and daughters of U.S. citizens, and their children): 20% of the overall annual limitation in any fiscal years;

Second preference (spouse and unmarried sons and daughters of aliens lawfully admitted for permanent residence, and their children): 26% of the overall limitation, plus any numbers not required for first preference;

Third preference (members of the professions or persons of exceptionalability in the sciences and arts, spouses and children): 10% of the overall limitation

Fourth preference (married sons and daughters of U.S. citizens, and their spouses and children): 10% of overall limitation, plus any numbers not required by the first three preference categories;

Fifth preference (brothers and sisters of U.S. citizens 21 years of age or over, and their spouses and chidlren): 24% of the overall limtation, plus any numbers not required by the first four preference categories;

Sixth preference (skilled and unskilled workers in short supply, and their spouses and children): 10% of the overall limitation;

Major Asian Sending Countries

Approximate Waiting Periods by Preference Class (in years)

Country	1st	2nd	3rd	4th	5th	6th
China	C	2	1	C	8	U
India	C	2	1	C	7	U
Korea	C	2	1	C	8	3.5
Philippines	6	7	**16**	**9**	**12.5**	4.5
Hong Kong	C	3	2	4	**9.5**	3
Other areas	C	3.5	1	C	6	2

("C" denotes "currently available"; "U" denotes "unavailable)

The chargeability areas with the highest number of active registrants as of January 1988 are listed below[29]; these areas together represent 77.5% of total worldwide registrants:

Philippines	**400,366**
Mexico	397,379
India	**189,433**
Korea	**137,396**
Vietnam	**123,971**
China-mainland born	**122,081**
China-Taiwan born	**87,475**
Dominican Republic	54,125
Jamaica	48,909
Hong Kong	**42,295**
Pakistan	**36,948**
Guyana	33,287
El Salvador	25,276

The totals and percentage of total registrants under the 2nd and 5th preferences were[30]:

Second	379,735	(17.3%)
Fifth	1,399,883	(63.9%)

---

29. U.S. Department of State, Visa Bulletin, Vol VI, No. 8.
30. ibid.

The statistics clearly demonstrate that hundreds of thousands of people are still trying to reunite with family members from whom they have been separated for years. But for the decades of discriminatory policies, this fiasco would not likely have occurred, or at least would not be so tragic in its proportions. Now, proponents of S. 358 want to use this legacy of discriminatory laws and policies to argue for restricting both the number of visas and the eligibility for the preferences in the name of eliminating or easing backlogs.

IV. S. 358 KENNEDY SIMPSON: MORE PROBLEMS

A. The Premises

S.358 operates on three premises:

1) there are or soon will be too many immigrants (read: Asians and Latinos not adequately skilled) entering the U.S. through the family preference and immediate relative systems, and therefore family reunification should no longer serve as a basis for immigration policy.

2) the family reunification system has not produced an adequate number of skilled and professional workers needed to meet the market demands of the next few decades;

3) current immigration laws and policies have effectively operated to exclude persons from Western European countries;

In order to resolve the problems identified in these premises, the objectives of S.358 (as discussed in the Senate report[31] and as considered by the General Accounting Office[32]) are to:

---

[31] U.S. Senate, Immigration Act of 1988 Report 100-290, 100th Cong. 2nd sess. (Senate report on S.2104)

a) place a first time overall cap on immediate family, family preference, and independent immigration;

b) increase the number of immigrants admitted on the basis of labor market characteristiss, rather than upon their family relationships;

c) provide more-equal access by creating two separate immigrant preference systems: one for close family members, another for 'independent' immigrants;

d) stimlulate immigration "from the earlier sources of immigration to [the United States]," particularly by "those now virtually excluded" because "they have no family connections in the United States";

e) to alter the distribution of family-related admissions by "giving higher priority to the closest family members"; and

f) to provide flexibility in the immigration system.

B. The Premises Are Flawed

Premise 1. The assertion that there are too many immigrants, particularly at a time when Asians have been allowed to immigrate in substantial numbers only in the last 20 years, is flawed and smacks of the same racism that prompted the passage of racially-based exclusionary acts. (see above) There are not too many immigrants, but rather a perception, albeit racist, that Asian and Latino immigrants are of the wrong kind and color. We simply cannot accept as a premise for immigration policy the notion that there are "too many" Asians coming to the United States. Estimates conclude that Asian-Americans (both immigrant and native-born citizens) constitute only 2% of the U.S. population.

---

32. Statement of Eleanor Chelimsky, Assistant Comptroller General, GAO before Senate Subcommittee on Immigration and Refugee Affairs, March 3, 1989.

Furthermore, the 1952 and 1965 Acts explicitly removed the use of race and national origin in establishing immigration laws.

Yet despite this mandate from the 1952 and 1965 Acts, S. 358 gives further life to the legacy of anti-Asian sentiment and to the stereotypical view of Asian Americans as perpetual foreigners, and consequently serves to whip up a nativist backlash against Asian immigrants who are viewed as too successful, too competitive, and too many.[33] This hostile result whether intended or unintended cuts against the national policy to eliminate racism and discrimination and to encourage equal opportunity and full participation.

We note additionally, that while S.358 purports to increase immigration from "underrepresented" countries, the GAO stated that "There is no assurance that S.358 would increase immigration from low-demand countries that were also earlier sources of immigrants..."[34] Many applicants from low demand countries were given the same access and opportunity to apply for visas but chose not to or deselected themselves when visas became available. This situation will not change under S. 358. Although we support in principle the concept of an independent category for immigrants who may no longer have current family ties in the United States, this can be achieved without restricting, narrowing, or destroying the family preferences.

---

[33] See United States Commission on Civil Rights report, Recent Activities Against Citizens and Residents of Asian Descent (1986).

[34] GAO, supra, at 15.

Premise 2. As pointed out by the GAO, an assessment of the impact of past immigrants on the structure of the U.S. work force is not possible for two reasons:

> First, data on immigrant occupations are often missing, unreliable, or both. For example, much of the data are gathered from visa applications and pertain to immigrants before they enter the U.S. labor market; spouses or derivative beneficiaries do not list an occupation; and the measure of occupation is not valid because it can refer to past occupation, current occupation, or intended occupation. The second reason is that high occupational turnover among immigrants would render any occupational projection problematic.
>
> The most consistent occupational data are for the current 3rd and 6th preference classes, which require labor certification. These findings are instructive, but they represent a small fraction - less than 10 percent - of the total immigration stream and are not likely to be representative of that larger stream.

GAO report, supra, 22-23. Thus, there is no data to support the conclusion that the shortage of skilled workers in the United States is due to the quality of persons immigrating under the preference system. We submit that the shortage of skilled workers among the indigenous population - due in part to the inadequate education system and poor government planning and priorities - is the real problem that Congress must address. (Moreover, filling a need for skilled workers in the U.S. has never been and should not be the central purpose of family reunification.)

Although visas under the current 3rd and 6th preferences are too often delayed (and require an amended and expited procedure), the proposed point/lottery system fails as a labor policy to match immigrants with the growing employment needs of the United States. Due to the randomness of a lottery, the anticipated labor needs of the 1990's cannot be met through a point/lottery system which cannot inherently match a potential immigrant professiqonal or skilled worker with a job. More study on the criteria and impact of a point system is required since the Select Commission on Immigration and Refugee Policy did not recommend a point system as the basis for an independent labor category.

Premise 3. The statistics alone do not establish that the current preference system and its use (particularly by "high demand" countries) are the cause of the limited immigration of Western Europeans. As noted above, Western European immigration has been basically unfettered throughout most of United States history. Consequently, there have been several generations of Irish, English, Germans, French, etc., families in the United States.[35] Few of these have spouses, siblings or children who are separated by oceans and borders like those from Asia and Mexico, and who seek family reunification. However, it is because of decades of discriminatory laws and policies that Asians and Mexicans find themselves tangled in the webbing of and making demands upon the preference system. Yet, because that preference system is wholly inadequate in terms of the visas alloted, Asian and Mexican families are separated for years.

---

[35] Alternative measures to increase immigration from Europe, Africa, and other continents through independent immigration would be welcome. See, e.g. S. 448, Sec. 3(a) as introduced.

V. THE IMPACT OF S. 358 ON THE ASIAN AMERICAN COMMUNITY

While S.358 by operation will give Congressional approval to the growing anti-Asian sentiment, it will, if passed, wreak havoc upon the lives of Asian families both abroad and in the United States.

A. Impact on Family Reunification

S.358 proposes restrictive changes to the current family reunification policy and immigration laws which are inconsistent with the spirit and letter of the 1981 recommendations of the U.S. Select Commission on Immigration and Refugee Policy. The Select Commission (on which S. 358 co-sponsor Alan Simpson served) reaffirmed the principal of family reunification as the cornerstone of our immigration system and recommended no restrictive changes to eligiblity under the family preferences and no reductions in the current number of family preference visas. The Select Commission also recommended continuing the admission of immediate relatives of United States citizens without a numerical limit, and explicitly opposed an overall ceiling on all legal immigration. In fact, the Select Commission proposed raising the overall number of available visas by 30% from 270,000 to 350,000 family preference visas per year, adding 100,000 visas per year for five years to ease backlogs within the family

prefernce system, and expanding the right of adult U.S. citizens to petition for both their grandparents and unmarried adult children as immediate relatives without a numerical quota.

1. The Cap on Family-Based Immigration

Despite these clear recommendations of the Select Commission, S. 358 would establish a system that rejects them. Perhaps most objectionable in S.358 is the provision establishing an unprecedented annual ceiling of 440,000 family-sponsored visas including both immediate relative visas and family preference visas. Sec. 102 (c).[36] Within this proposed ceiling, the visas for immediate relatives of U.S. citizens would be set off against the visas allocated for the family preference which are most often used by persons of Asian and Hispanic ancestry to reunite their families. Eventually, the visas issued to immediate relatives will be subtracted from the available visas for family preferences and will pit one family relationship against another.[37] This also means that members of the same family will compete for a limited number of visas under this unprecedented ceiling. The GAO projected that immigration from all family preference categories under this bill would be reduced to zero by 1998-99.[38] Consequently, it is illusory to represent that in the long run family reunification based on the preferences will continue.

---

[36] S. 358 establishes a cap of 590,000 visas for both family preference and independent immigration. Sec. 102(a). Of these, 440,000 are allocated for family preferences (plus 30,000 for the 5th preference backlog for the first three years; 120,000 are allocated for independent immigrants (plus 30,000 after three years). Sec. 102(a)

[37] Immediate relatives have been issued approximately 200,000 visas per year. However, the numbers of visas has been increasing at a rate of 6% over the last few years.

Thus while S.358 purports to increase the number of family-related visas, the net effect of placing a cap on family related imigration would be to eliminate all family preference categories except immediate relatives. Unmarried adult sons and daaughters of U.S. citizens would be separated from their parents. Spouses and unmarried children of permanent residents would be separated from their spouses or parents in the United States. Brothers and sisters of U.S. citizens would be denied the opportunity to live as a family in this country. This clearly runs counter to the recommendations of the Select Commission.

2. Narrowing the 2nd Preference

For over 20 years, Congress has recognized the need for U.S. citizens and lawful permanent residents to reunite with their unmarried sons and daughters regardless of age (Secs. 202(e)(1) and (2) of the INA). Yet S. 358 narrows the second preference eligiblity from spouses and unmarried children to spouses and unmarried children under 26 years of age, and thereby unduly restricts the family reunification process.[39,40] No sound policy reason has been nor can be established for this restriction.

---

[38] GAO, id. at 14

(Currently there is a tremendous backlog of applicants for the second preference category. As of January 1989, there were 379,735 active immigrant applicants (2nd preference) registered at consular offices abroad for 70,200 available visas. Native residents of the Philippines have over 77,661 applications.)

3. Narrowing the 5th Preference

S. 358 seeks to narrow the fifth preference (the preference with the largest percentage (63.9%) of registrants) by restricting beneficiaries to never married brothers and sisters. This drastic revision of a 20 year old statute (cite) allowing for petitioning of both married and unmarried brothers and sisters, would severely and unduly cut Asian immigration. Current numerical limitations on the 5th preference have already caused unacceptable major backlogs, e.g. 12 years for the Philippines and nearly 10 years for Hong Kong.

Furthermore, S. 358 effectively cuts by two-thirds (from 70,000 annually under current law to an estimated 20,000 or less) the number of visas under the 5th preference, a

---

[39] S. 448 (Simon bill), as introduced poses no restrictions on the 2nd preference. Sec. 3(a)(1).

[40] In 1987, 110,756 persons immigrated under the 2nd preference. Of them, 56,611 were unmarried sons and daughters. Of these unmarried sons and daughters, 18, 785 were 26 years of age or older, and would have lost their eligiblity under the second preference category.

preference most often used by Asian and Hispanic families. Thus, the tens of thousands of individuals each representing a family divided, who have already registered for visas would be forced to wait for an even longer time. As described by the GAO, "...although limiting new 5th preference applications to "never married" brothers and sisters would drastically reduce new applications, the length of the current waiting list and limits on admissions mean that it could be nearly **75 years** before petitions filed now would be acted upon." GAO, supra, 21. (emphasis added) Thus, because of the oversubscription of 5th preference visas, the 5th preference is effectively eliminated.[41]

Since many Asians rely on the 5th preference to reunite their families, the net effect of S. 358 would be to block this reunification. This measure then is reminiscent of the discriminatory exclusion laws discussed above, and furthers those laws effect by curbing any measures, i.e. current preference system, aimed at overcoming their discriminatory impact on the Asian community.[42]

---

41. In comparison, S. 448 as introduced does not exclude married brothers and sisters.

42. The 1982 version of the Simpson Mazzoli bill (S. 222) included a provision to eliminate the 5th preference and to restrict the 2nd preference to spouses and unmarried sons and daughters under 26 of permanent residents. Asian organizations vehemently objected to these proposed restrictions because of their potential discriminatory impact. Although the Senate passed the bill, Sen. Kennedy voted against it. It died in the House in 1982 but was quickly reintroduced in 1983 and again in 1985. The final version left the family preference system untouched.

4. Other restrictions on family reunification

Aside from the cap on family visas and the attack on the 2nd and 5th preferences, S.358 reduces initially the annual quota of visas per country from 20,000 to 15,600 while the annual quota for China, the Dominican Republic, India, Korea, Mexico and the Philippines would be eventually reduced to 7,800. S.358 also cuts from the first preference 21,000 visas allocated for unmarried sons and daughters of U.S. citizens. (cite)

Given the devastating impact that these limitations on family reunification would have on Asian families and on Asian immigration in general, we must oppose S. 358.

We note that while S.358 is allegedly intended to stimulate immigration from Western European countries, e.g. Ireland, through the independent point system, the Irish Immigration Reform Movement has testified to Congress:

> o A ceiling on legal immigration is not necessary. This country can absorb many more legal immigrants in the years ahead. Indeed, the U.S. Department of Labor and others maintain that the end of the baby boom and the "birth dearth" have created a pressing need for skilled workers.
>
> o We believe that there is no need for a reduction in the family preferences. On the contrary, we need increases, particularly in the second preference so that spouses and children can be reunited with permanent residents.[43]

---

[43] Testimony of Donald Martin on behalf of the Irish Immigration Reform Movement on H.R. 5115 and S. 2104, before House Committee on the Judiciary, Subcommittee on Immigration, Refugees and International Law, September 16, 1988. (emphasis added)

B. The Independent Category

S.358 creates an independent category of immigrants who may lack immediate family ties necessary for a family preference visa but who may qualify for 54,000 visas per year if they have 50 or more points based on English language proficiency, college or post-graduate education, job training and experience, and occupational demand. While we do not oppose the creation of additional categories to allow for more persons to immigrate to the United States, this provision combined with the potential discriminatory impact caused by the restrictions on family reunification, raises serious questions about the perceptions of the proponents.

Specifically, the inherent statement of the bill is that those entering based on family ties do not contribute needed labor skills and are not educated. This is simply not true. No data exists (according to the GAO) to support the assertion that family preference beneficiaries do not contribute needed skills. GAO report, supra, 22-23.

Furthermore, the bill's preference for those independent immigrants who are fluent in English [Sec. 103(a)][44] would

---

[44]

> "(B) The point assessment system...shall accord points based on criteria as follows:
>
> ...
>
> (iii) English language ability (20 ppoints) - For an alien who certifies, upon the date of filing a petition, subject to verification by examination after the date of selection, that he has an understanding of the English language and the ability to communicate in such language, 20 points

have a discriminatory impact on those from non-English speaking Asian and Latino countries, similar to the "English speaking" requirement of the Immigration Act of 1917.[45] The net effect then would be to impose additional barriers to residents of those countries, thereby reducing through indirect means their immigration.

Delegation of Authority to the Executive

Sec. 102(a) provides that the President may set future levels of legal immigration with respect to 5% of the visas (i.e. 30,000 visas) (absent Congressional action). This delegation of power to the Executive branch in determining the levels of immigration is unpredecented. S. 358 would give to the branch of government that is responsible for enforcement of the laws a function traditionally, and arguably constitutionallly, reserved to Congress -- namely, defining the overall numerical limitations on legal imnmigration. Numerical limitations on family reunification preference immigration have always been amended by affirmative acts of Congress. Rather than have legal immigration levels being determined by the enforcement arm of the government, Congress should retain this power but might consider the use of a commission which makes recommendations.

S.358, Sec. 103(a).

[45] In comparison, S.448, as introduced, does not include English language ability as a criteria in its point system.

CONCLUSION

The undersigned organizations opppose S. 358. As a general matter, we do not have any objection to the concept, endorsed by the Select Commission on Immigration and Refugee Policy, of making provision in the immigrant admissions system to facilitate the immigration of persons without current family ties in the United States. This could be accomplished by a balanced and racially neutral expansion of the non-preference program.

The bill, however, goes well beyond this discrete goal. The establishment of an overall cap on legal immigration, and the inclusion of immediate relatives within that cap, will operate within one decade to close this nation's doors to tens of thousands of sons, daughters, husbands, wives, brothers and sisters of U.S. citizens and lawful permanent residents. S.358 will divide families, by forcing immediate relatives and family preference immigrants to compete for the same number of visas. Since at least 1968, immediate relatives have never been, and must not now be brought under any form of numerical limitation.

In addition, S. 358 redefines for immigration purposes the concept of the nuclear family, and, in so doing, further undermines family reunification as a sound historical foundation of United States immigration law and policy. In excluding from 2nd preference eligibility unmarried children of permanent resident aliens over the age of 26, and from 5th preference eligibility married brothers and sisters of U.S. citizens, and reducing by two-thirds the number of visas available under the 5th preference, the bill disproportionately restricts the eligibility and access of Asian immigrants, who use these preferences more than any other group.

The United States has seen fit to step beyond its checkered past of restrictive and racist immigration laws. Whether intended or not, S. 358 will have a discriminatory impact upon Asian immigration. We recommend that the current family reunification preferences be maintained in their fullest (and eventually expanded), that the 2nd and 5th preferences not be reduced, that immediate relatives be permitted to continue to immigrate freely, and that nonpreference immigration be expanded to accomodate those who find themselves beyond reach of this country's doors.

Respectfully submitted:

Stanley Mark, Program Director
ASIAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND (New York)

Angelo Ancheta, Executive Director
ASIAN LAW ALLIANCE (San Jose)

William R. Tamayo, Managing Attorney
ASIAN LAW CAUCUS (San Francisco/Oakland)

Stewart Kwoh, Executive Director
ASIAN PACIFIC AMERICAN LEGAL CENTER OF SOUTHERN CALIFORNIA (Los Angeles)

(cont.)

William Hoshijo, Executive Director
NA LOIO NO NA KANAKA (Lawyers for the People of Hawaii)
(Honolulu)

Dean Ito Taylor, Executive Director
NIHONMACHI LEGAL OUTREACH (San Francisco)

By: ______________________________
William R. Tamayo

Chapter 1

Historical Discrimination in the Immigration Laws

The Early Years

During the formative years of this country's growth, immigration was encouraged with little restraint. Any restrictions on immigration in the 1700s were the result of selection standards established by each colonial settlement. The only Federal regulation of immigration in this period lasted only 2 years and came from the Alien Act of 1798, which gave the President the authority to expel aliens who posed a threat to national security.[1]

Immigrants from northern and western Europe began to trickle into the country as a result of the faltering economic conditions within their own countries. In Germany, unfavorable economic prospects in industry and trade, combined with political unrest, drove many of its nationals to seek opportunities to ply their trades here.[2] In Ireland, the problems of the economy, compounded by several successive potato crop failures in the 1840s, sent thousands of Irish to seaports where ships bound for the United States were docked.[3] For other European nationals, the emigration from their native countries received impetus not only from adverse economic conditions at home but also from favorable stories of free land and good wages in America.[4]

The Nativist Movements

As a result of the large numbers of Catholics who emigrated from Europe, a nativist movement began in the 1830s.[5] It advocated immigration restriction to prevent further arrivals of Catholics into this country. Anti-Catholicism was a very popular theme, and many Catholics and Catholic institutions suffered violent attacks from nativist sympathizers. The movement, however, did not gain great political strength and its goal of curbing immigration did not materialize.

Immigrants in the mid-19th century did not come only from northern and western Europe. In China, political unrest and the decline in agricultural productivity spawned the immigration of Chinese to American shores.[6] The numbers of Chinese immigrants steadily increased after the so-called Opium War, due not only to the Chinese economy, but also to the widespread stories of available employment, good wages, and the discovery of gold at Sutter's Mill, which filtered in through arrivals from the Western nations.[7]

The nativist movement of the 1830s resurfaced in the late 1840s and developed into a political party, the Know-Nothing Party.[8] Its western adherents added an anti-Chinese theme to the eastern anti-Catholic sentiment.[9] But once again, the nativist movement, while acquiring local political strength, failed in its attempts to enact legislation curbing immigration. On the local level, however, the cry of "America for Americans" often led to discriminatory State statutes that penalized certain racially identifiable groups.[10] As an example, California adopted licensing statutes for foreign miners and fishermen, which were almost exclusively enforced against Chinese.[11]

---

[1] Ch. 58, 1 Stat. 570 (1798).

[2] Carl Wittke, *We Who Built America* (rev. 1964), p. 67.

[3] Ibid., pp. 127–33.

[4] Ibid., pp. 101–10.

[5] Ibid., pp. 491–97.

[6] Li Chien-nung, *The Political History of China, 1840–1928* (1956), pp. 48–49; Stanford Lyman, *Chinese Americans* (1974), pp. 4–5.

[7] Mary Roberts Coolidge, *Chinese Immigration* (1909), pp. 16–17.

[8] Wittke, *We Who Built America*, pp. 497–510.

[9] Coolidge, *Chinese Immigration*, p. 58.

[10] Ibid., pp. 69–82. Some municipalities also adopted ordinances that discriminated against Chinese. As an example, a San Francisco municipal ordinance, subsequently held unconstitutional in Yick Wo v. Hopkins, 118 U.S. 356 (1886), was enacted regulating the operation of public laundries but in practice was enforced almost exclusively against Chinese.

In the mid-1850s, the Know-Nothing Party lost steam as a result of a division over the question of slavery, the most important issue of that time.[12] The nativist movement and antiforeign sentiment receded because of the slavery issue and the Civil War. It maintained this secondary role until the Panic of 1873 struck.

Chinese Exclusion

The depression economy of the 1870s was blamed on aliens who were accused of driving wages to a substandard level as well as taking away jobs that "belonged" to white Americans. While the economic charges were not totally without basis, reality shows that most aliens did not compete with white labor for "desirable" white jobs. Instead, aliens usually were relegated to the most menial employment.[13]

The primary target was the Chinese, whose high racial visibility, coupled with cultural dissimilarity and lack of political power, made them more than an adequate scapegoat for the economic problems of the 1870s.[14] Newspapers adopted the exhortations of labor leaders, blaming the Chinese for the economic plight of the working class. Workers released their frustrations and anger on the Chinese, particularly in the West.[15] Finally, politicians succumbed to the growing cry for exclusion of Chinese.

Congress responded by passing the Chinese Exclusion Act of 1882.[16] That act suspended immigration of Chinese laborers for 10 years, except for those who were in the country on November 17, 1880. Those who were not lawfully entitled to reside in the United States were subject to deportation. Chinese immigrants were also prohibited from obtaining United States citizenship after the effective date of the act.

The 1882 act was amended in 1884 to cover all subjects of China and Chinese who resided in any other foreign country.[17] Then in 1888, another act was enacted that extended the suspension of immigration for all Chinese except Chinese officials, merchants, students, teachers, and travelers for pleasure.[18] Supplemental legislation to that act also prohibited Chinese laborers from reentering the country, as provided for in the 1882 act, unless they reentered prior to the effective date of the legislation.[19]

Senator Matthew C. Butler of South Carolina summed up the congressional efforts to exclude Chinese by stating:

> [I]t seems to me that this whole Chinese business has been a matter of political advantage, and we have not been governed by that deliberation which it would seem to me the gravity of the question requires. In other words, there is a very important Presidential election pending. One House of Congress passes an act driving these poor devils into the Pacific Ocean, and the other House comes up and says, "Yes, we will drive them further into the Pacific Ocean, notwithstanding the treaties between the two governments."[20]

Nevertheless, the Chinese exclusion law was extended in 1892[21] and 1902,[22] and in 1904 it was extended indefinitely.[23]

Although challenged by American residents of Chinese ancestry, the provisions of these exclusion acts were usually upheld by judicial decisions. For example, the 1892 act[24] mandated that Chinese laborers obtain certificates of residency within 1 year after the passage of the act or face deportation. In order to obtain the certificate, the testimony of one credible white witness was required to establish that the Chinese laborer was an American resident prior to the passage of the act. That requirement was upheld by the United States Supreme Court in *Fong Yue Ting* v. *United States.*[25]

Literacy Tests and the Asiatic Barred Zone

The racial nature of immigration laws clearly manifested itself in further restrictions on prospective immigrants who were either from Asian countries or of Asian descent.' In addition to extending the statutory life of the Chinese exclusion law, the 1902 act also applied that law to American territorial possessions, thereby prohibiting not only the immigration of noncitizen Chinese laborers from "such island territory to the mainland territory," but also "from one portion of the island territory of the United States to another portion of said island territory."[26] Soon after, Japanese were restricted from free immigration to the United States by the "Gentleman's Agreement" negotiated between the respective governments in 1907.[27] Additional evidence would be provided by the prohibition of immigration from countries in the Asia-Pacific Triangle as established by the Immigration Act of 1917.[28]

---

[11] Ibid., pp. 33-38, 69-74.

[12] Wittke, *We Who Built America*, pp. 509-10.

[13] As one author noted, "[b]efore the late 1870's the Chinese engaged only in such work as white laborers refused to perform. Thus the Chinese not only were noninjurious competitors but in effect were benefactors to the white laborer." S.W. Kung, *Chinese in American Life: Some Aspects of Their History, Status, Problems, and Contributions* (1962), p. 68.

[14] Carey McWilliams, *Brothers Under the Skin* (rev. 1951), pp. 101-03.

[15] Coolidge, *Chinese Immigration*, p. 188.

[16] Ch. 126, 22 Stat. 58 (1882).

[17] Ch. 220, 23 Stat. 115 (1884).

[18] Ch. 1015, 25 Stat. 476 (1888).

[19] Ch. 1064, 25 Stat. 504 (1888).

[20] 19 Cong. Rec. 8218 (1888).

[21] Ch. 60, 27 Stat. 25 (1892).

[22] Ch. 641, 32 Stat. 176 (1902).

[23] Ch. 1630, 33 Stat. 428. (1904).

[24] Ch. 60, 27 Stat. 25 (1892).

[25] 149 U.S. 698 (1893).

During this period, congressional attempts were also made to prevent blacks from immigrating to this country. In 1915 an amendment to exclude "all members of the African or black race" from admission to the United States was introduced in the Senate during its deliberations on a proposed immigration bill.[29] The Senate approved the amendment on a 29 to 25 vote,[30] but it was later defeated in the House by a 253 to 74 vote,[31] after intensive lobbying by the NAACP.[32]

In 1917 Congress codified existing immigration laws in the Immigration Act of that year.[33] That act retained all the prior grounds for inadmissibility and added illiterates to the list of those ineligible to immigrate, as a response to the influx of immigrants from southern and eastern Europe. Because of a fear that American standards would be lowered by these new immigrants who were believed to be racially "unassimilable" and illiterate, any alien who was over 16 and could not read was excluded. The other important feature of this statute was the creation of the Asia-Pacific Triangle, an Asiatic barred zone, designed to exclude Asians completely from immigration to the United States. The only exemptions from this zone were from an area that included Persia and parts of Afghanistan and Russia.

The 1917 immigration law reflected the movement of American immigration policy toward the curbing of free immigration. Free immigration, particularly from nations that were culturally dissimilar to the northern and western European background of most Americans, was popularly believed to be the root of both the economic problems and the social problems confronting this country.

The National Origins Quota System

Four years later, Congress created a temporary quota law that limited the number of aliens of any nationality who could immigrate to 3 percent of the United States residents of that nationality living in the country in 1910.[34] The total annual immigration allowable in any one year was set at 350,000. Western Hemisphere aliens were exempt from the quota if their country of origin was an independent nation and the alien had resided there at least 1 year.

The clear intent of the 1921 quota law was to confine immigration as much as possible to western and northern European stock. As the minority report noted:

> The obvious purpose of this discrimination is the adoption of an unfounded anthropological theory that the nations which are favored are the progeny of fictitious and hitherto unsuspected Nordic ancestors, while those discriminated against are not classified as belonging to that mythical ancestral stock. No scientific evidence worthy of consideration was introduced to substantiate this pseudoscientific proposition. It is pure fiction and the creation of a journalistic imagination. . . .
>
> The majority report insinuates that some of those who have come from foreign countries are non-assimilable or slow of assimilation. No facts are offered in support of such a statement. The preponderance of testimony adduced before the committee is to the contrary.[35]

Notwithstanding these objections, Congress made the temporary quota a permanent one with the enactment of the 1924 National Origins Act.[36] A ceiling of 150,000 immigrants per year was imposed. Quotas for each nationality group were 2 percent of the total members of that nationality residing in the United States according to the 1890 census.[37] Again, Western Hemisphere aliens were exempt from the quotas (thus, classified as "nonquota" immigrants). Any prospective immigrant was required to obtain a sponsor in this country and to obtain a visa from an American consulate office abroad. Entering the country without a visa and in violation of the law subjected the entrant to deportation without regard to the time of entry (no statute of limitation). Another provision, prohibiting the immigration of aliens ineligible for citizenship, completely closed the door on Japanese immigration, since the Supreme Court had ruled that Japanese were ineligible to become naturalized citizens.[38] Prior to the 1924 act, Japanese immigration had been subjected to "voluntary" restraint by the Gentleman's Agreement negotiated between the Japanese Government and President Theodore Roosevelt.

---

[26] Ch. 641, 32 Stat. 176 (1902).

[27] The Gentleman's Agreement of 1907, U.S. Department of State, *Papers Relating to the Foreign Relations of the United States 1924* (1939), vol. 2, p. 339.

[28] Ch. 29, 39 Stat. 874 (1917).

[29] 52 Cong. Rec. 805 (1914).

[30] *Id.* at 807.

[31] *Id.* at 1138-39.

[32] See Crisis, vol. 9 (February 1915), p. 190.

[33] Ch. 29, 39 Stat. 874 (1917).

[34] Ch. 8, 42 Stat. 5 (1921).

[35] As reprinted in the legislative history of the INA [1952] U.S. Code Cong. and Ad. News 1653, 1668.

[36] Ch. 190, 43 Stat. 153 (1924).

In addition to its expressed discriminatory provisions, the 1924 law was also criticized as discriminatory against blacks in general and against black West Indians in particular.[39]

The Mexican "Repatriation" Campaign

Although Mexican Americans have a long history of residence within present United States territory,[40] Mexican immigration to this country is of relatively recent vintage.[41] Mexican citizens began immigrating to this country in significant numbers after 1909 because of economic conditions as well as the violence and political upheaval of the Mexican Revolution.[42] These refugees were welcomed by Americans, for they helped to alleviate the labor shortage caused by the First World War.[43] The spirit of acceptance lasted only a short time, however.

Spurred by the economic distress of the Great Depression, Federal immigration officials expelled hundreds of thousands of persons of Mexican descent from this country through increased Border Patrol raids and other immigration law enforcement techniques.[44] To mollify public objection to the mass expulsions, this program was called the "repatriation" campaign. Approximately 500,000 persons were "repatriated" to Mexico, with more than half of them being United States citizens.[45]

Erosion of Certain Discriminatory Barriers

Prior to the next recodification of the immigration laws, there were several congressional enactments that cut away at the discriminatory barriers established by the national origins system. In 1943 the Chinese Exclusion Act was repealed, allowing a quota of 105 Chinese to immigrate annually to this country and declaring Chinese eligible for naturalization.[46] The War Brides Act of 1945[47] permitted the immigration of 118,000 spouses and children of military servicemen. In 1946 Congress enacted legislation granting eligibility for naturalization to Pilipinos[48] and to races indigenous to India.[49] A Presidential proclamation in that same year increased the Pilipino quota from 50 to 100.[50] In 1948 the Displaced Persons Act provided for the entry of approximately 400,000 refugees from Germany, Italy, and Austria (an additional 214,000 refugees were later admitted to the United States).[51]

---

[37] That act provided, however, that:

> The annual quota of any nationality for the fiscal year beginning July 1, 1927, and for each fiscal year thereafter, shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin (ascertained as hereinafter provided in this section) bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100.

Ch. 190, 43 Stat. 153, 159, §11(b).

[38] Early congressional enactments restricted eligibility for naturalization to free white persons (ch. 3, 1 Stat. 103 (1790)) and to persons of African nativity or descent (Rev. Stat. §2169 (1875)). But when Congress passed the Naturalization Act of June 29, 1906 (ch. 3592, 34 Stat. 596), persons of Japanese ancestry began submitting petitions to become naturalized citizens under the procedures established by that act. The Supreme Court, however, held that the 1906 act was limited by the prior congressional enactments and thus Japanese were ineligible for naturalization. Ozawa v. United States, 260 U.S. 178 (1922).

[39] "West Indian Immigration and the American Negro," *Opportunity*, October 1924, pp. 298–99.

[40] Under the Treaty of Guadalupe Hidalgo, many Mexican citizens became United States citizens after the annexation of territory by the United States following the Mexican War. Leo Grebler, Joan W. Moore, and Ralph C. Guzman, *The Mexican American People* (1970), pp. 40–41. The Treaty of Guadalupe Hidalgo is reprinted in Wayne Moquin, *A Documentary History of the Mexican Americans* (1971), p. 183.

[41] Grebler, Moore, and Guzman, *The Mexican American People*, pp. 62–63.

[42] Ibid.

[43] Ibid., p. 64.

[44] Ibid., pp. 523–26.

[45] Moquin, *A Documentary History of the Mexican Americans*, p. 294.

[46] Ch. 344, 57 Stat. 600 (1943).

[47] Ch. 591, 59 Stat. 659 (1945).

[48] 60 Stat. 1353.

[49] Ch. 534, 60 Stat. 416 (1946).

[50] Presidential Proclamation No. 2696, [1946] U.S. Code Cong. and Ad. News 1732.

[51] Ch. 647, 62 Stat. 1009 (1948).

Member Agency—National Catholic Resettlement Council

American Committee on Italian Migration
352 West 44th Street, New York, N.Y. 10036
Tel. (212) 247-7373

Most Rev.
Anthony F. Mestice, D.D.
Chairman of the Board

Juvenal L. Marchisio
Secretary

Salvatore Argenio
Treasurer

BOARD OF DIRECTORS
Eugene D. Barse
Nicholas A. Bonasera
Anthony Brusco
Rev. Msgr. J. John Busco
Frank Carano
Charles Cirelli
Ralph DeChiaro
Rev. Msgr.
Nicholas DiMarzio
Rev. Louis Donanzan, C.S.
Carl Fazio
Salvatore Giardina
Rev. Msgr. James J. Kelly
William Laurice
E. Christopher Macri
Hon. Dominic R. Massaro
Charles Matero
Salvatore Pelle
Fortune R. Pope
Dennis Ricci
Tom Rumore
Clemente A. Siclare
Very Reverend
Silvano M. Tomasi, C.S.
Peter Torrieri
Charles Tricarichi
Carl A. Vergari
Dr. Anthony Verrone
Captain Mario F. Vespa

Office in Italy
Centro Emigrazione
Via Amerigo Vespucci, 170
80142 Naples
Tel. (081) 287-649
Antonio Colao
Director

Rev. Joseph A. Cogo, C.S.
Executive Secretary

May 30, 1989

Dear Senator Kennedy:

It is our understanding that the Judiciary Committee will schedule a vote on the Kennedy-Simpson and Simon immigration bills on June 8th next.

Since we were not given an opportunity to express our views and recommendations at the hearings when these bills were considered, we deem it important for us to submit them to you prior to the vote. I am enclosing our recent testimony on the matter delivered before the New York City Council.

As long as a situation remains where Asians and South Americans compete with numbers in the millions against Europeans where demand is one-tenth that number, the result will be that two regions of the world will continue to use the lion's share of available visas.

Only "regional ceilings" or "regional floors" will prove to be an effective way of assuring a fair distribution of visas world-wide and an equitable diversity in our immigration flow.

We would appreciate having your reactions to our proposals. Thank you for your consideration, and with kind regards, I remain,

Sincerely yours,

[Rev.] Joseph A. Cogo, C.S.

Hon. Edward M. Kennedy
315 Senate Russell Office Building
Washington, D.C. 20510-2101

JAC/em
Enc.

Member Agency—National Catholic Resettlement Council

American Committee on Italian Migration

352 West 44th Street, New York, N.Y. 10036
Tel. (212) 247-7373

Most Rev.
Anthony F. Mestice, D.D.
Chairman of the Board

Juvenal L. Marchisio
Secretary

Salvatore Argento
Treasurer

BOARD OF DIRECTORS
Eugene D. Barse
Nicholas A. Bonasera
Anthony Brusco
Rev. Msgr. J. John Busco
Frank Carano
Charles Cirelli
Ralph DeChiaro
Rev. Msgr.
Nicholas DiMarzio
Rev. Louis Donanzan, C.S.
Carl Fazio
Salvatore Giardina
Rev. Msgr. James J. Kelly
William Laurice
E. Christopher Macri
Hon. Dominic R. Massaro
Charles Matero
Salvatore Pelle
Fortune R. Pope
Dennis Ricci
Tom Rumore
Clemente A. Siclare
Very Reverend
Silvano M. Tomasi, C.S.
Peter Torrieri
Charles Tricarichi
Carl A. Vergari
Dr. Anthony Verrone
Captain Mario F. Vespa

Office in Italy
Centro Emigrazione
Via Amerigo Vespucci, 170
80142 Naples
Tel. (081) 287-649
Antonio Colao
Director

Rev. Joseph A. Cogo, C.S.
Executive Secretary

TESTIMONY

ON S. 358
(THE KENNEDY-SIMPSON BILL)

BY THE

REV. JOSEPH A. COGO, C. S.

ON BEHALF OF

THE AMERICAN COMMITTEE ON ITALIAN MIGRATION

BEFORE

THE SELECT COMMITTEE ON IMMIGRATION

THE CITY OF NEW YORK

APRIL 12, 1989

THE AMERICAN COMMITTEE ON ITALIAN MIGRATION IS A NON-PROFIT CATHOLIC LAY ORGANIZATION ESTABLISHED IN 1952, FOR THE PURPOSE OF PROMOTING FAIR IMMIGRATION POLICIES AND OF ASSISTING ITALIAN IMMIGRANTS IN THEIR PROBLEMS OF RESETTLEMENT AND ASSIMILATION.

ACIM stands for a fair immigration policy favoring reunion of families and assists Italian immigrants in immigration, citizenship and pensions from Italy.

SUMMARY OF TESTIMONY

Senators Kennedy and Simpson identify three problems with the 1965 Act:

1 - inability to establish a fixed number of immigrants per year
2 - imbalance in the issuance of visas: too many for family-related, too few for labor-related immigrants
3 - imbalance in the place of origins of immigrants: two regions alone use up to 85% of the visas

In the bill S. 358 the legislators propose to achieve three goals:

1 - to control the number of immigrants per year
2 - to bring into balance the numbers of family-related immigrants with the labor-related immigrants
3 - to achieve a more diversified immigration flow from all regions of the world

We agree with the analysis of the three problems, and we concur with the desire to accomplish the three stated goals. We agree with some provisions of the bill; we disagree with others and we propose amendments to achieve those goals.

GOAL I - TO SET A FIXED NUMBER OF IMMIGRANTS PER YEAR

We agree with the desire to be able to regulate the influx of immigrants per year.
We disagree that immediate relatives should be placed under the cap.
We propose that immediate relatives be more generously redefined to include spouses and unmarried children of resident aliens, and to exclude parents of U.S. citizens.
We propose that non-immediate relatives be classified as follows:

1 Preference - Parents, unmarried son and daughter of U.S. citizen
2 Preference - Unmarried son and daughter of resident, regardless of age
3 Preference - Married son and daughter of U.S. citizen
4 Preference - Brother and sister of U.S. citizen, regardless of marital status

We disagree that married brothers and sisters be excluded from the preferences.
We accept the existence of backlogs.

GOAL II - MORE VISAS FOR LABOR-RELATED IMMIGRANTS

Labor-related immigrants should have their own set number, separate from family-related. Labor-related quota should be flexible: generous in time of economic expansion, moderate in time of recession.

Labor certification to be amended, to make it possible for candidates to immigrate in reasonable time. Present several years wait is counter-productive.

GOAL III - DIVERSITY IN OUR IMMIGRATION FLOW

The independent category is not the answer. Asia and South America will still use most of the numbers, because they outnumber the other regions in population.

The only way of insuring a fair competition among all regions is to impose regional ceilings as the present law imposes per-country ceilings.

THE KENNEDY-SIMPSON BILL, S. 358

We welcome S.358 as a sign of firm intention on the part of the Senate to face the problem of legal immigration which is obviously in need of reform. We agree with Senator Kennedy when he says, "We are resuming today the debate we left unfinished last year on the question of immigration reform", but we do not agree when he says, "this bill represents a consensus on what needs to be done". Much debate is still needed to make a consensus.

We agree with Senator Simpson's statement, that the present law does not serve the national interest. The Senator identified three main problems with the current law: 1) it does not allow the United States to set in advance the number of immigrants who may enter in a given year, 2) it reserves only 5% of all permanent visas for persons whose skills would serve the United States economy (while providing 95% of those visas to persons having a family connection in this country), and 3) it has allowed two regions in the world to dominate the visa allotment system and receive 85% of the visas.

In addressing these problems, he expects S.358 to achieve the following goals: 1) to set a flexible, reviewable national level of immigration, 2) to increase the number and proportion of visas that are granted to persons whose skills and qualities would serve the national interest, and 3) to create more diversity in our legal immigrant flows.

We welcome new legislation that seeks to achieve these goals. Unfortunately we don't think S.358 will achieve them. We shall try to present our views with these three goals in mind.

GOAL I - TO SET A FLEXIBLE, REVIEWABLE NATIONAL LEVEL OF IMMIGRATION

In principle, the goal is acceptable and desirable. In practice, S.358 places a "cap" on family-related visas. It is true that immediate relatives would never be without a visa, but the cap would jeopardize the chance of all other relatives. We feel that the establishment of a cap is an underhanded way of unduly restricting immigration. We should not be overly concerned with granting a generous number of visas to family members, as they are quickly absorbed in our society and become productive citizens without creating any social problem.

The intention of restricting family-related immigration becomes clear in S.358 when it redefines the present second preference to allow unmarried sons and daughters only up to age 26, and the present fifth preference to allow only the never married brothers and sisters.

We do not go along with these two amendments. We are opposed to restricting the definition of unmarried children up to 26 years of age. If a son or daughter is unmarried, he or she is part of the nuclear family, whether he or she be 25 years old or 54.

We oppose the proposed restriction in the Senate bill to exclude the "never married" brothers and sisters. The proponents of such change argue that an adult brother or sister is not close enough to merit inclusion as part of the family reunion. The argument is gratuitous. It may be so for some, but it is not generally so.

For Italians, and for many other ethnic groups, brothers and sisters, whether they are married or not, are an integral part of the family. Elimination of this preference category would violate the sacrosanct value of American citizens to live with their family according to their own tradition and culture.

Their real argument for the curtailing of the fifth preference is their desire to eliminate the occurrence of serious backlogs in this category. We respect the sincerity of this concern. However, we would like them to understand that American citizen sponsors prefer to bear a long wait rather than losing altogether the possibility of reuniting with their brothers and sisters.

Furthermore, projections of backlogs are often misleading. Simple extrapolation of present backlogs into the far-off future produces staggering results. In practice, however, with the mere existence of one or two years of waiting on the lists, the number of applicants who will maintain the interest in migrating diminishes substantially.

Finally the problem of backlogs can be expected to occur in only a few countries (China, India, Philippines, and Mexico, primarily). Our immigration law should not eliminate a whole category of people only because of the visa demand structure of a few countries. Imposing a restriction on all United States citizens from being joined by their families makes sense only if tidiness, an absence of a "messy" backlog outweighs the human values of family life. That would be the triumph of bureaucratic rigidity over basic humanity.

At this point we should like to propose our own alternatives for the family-reunion preference categories.

1 - We accept a flexible cap on the number of immigrants in the non-immediate relatives categories.

2 - We propose that immediate relatives not be numerically restricted.

3 - We suggest that the immediate relatives category include the spouses and unmarried children of permanent residents, and exclude the parents of United States citizens.

We are happy to note that Congressman Berman in his HR 672 agrees with our concept. The reason being that a strictly nuclear family should never be separated, whether they are citizens or simply residents. Keeping a nuclear family separated for years is a violation of a basic human right. We regret taking the parents of United States citizens out of this category, but we feel that reunion of a nuclear family supersedes even the privilege of a United States citizen.

4 - The numerically limited number of visas among non-immediate relatives should be distributed in the following priority:

First Preference: Parents, unmarried son and daughter of United States citizen

Second Preference: Unmarried son and daughter of resident. (We do not agree with the age limitation of 26 years in S.358)

Third Preference: Married son and daughter of United States citizen

Fourth Preference: Brother and sister of United States citizen (We do not agree with the limitation of never married in S.358)

As far as percentages, we feel the determination should be left to the technicians who have the statistics and data regarding the actual and foreseeable demand in the various categories. The same goes for the cap on non-immediate relatives to be allowed to enter the United States per year. We bow to the expertise of sociologists, economists, ecologists and labor. We would like to emphasize, however, that it is our contention that a generous immigration policy is healthy for our society, as experience has amply proven. We are, therefore, more prone to endorse the figure of 712,000 as in the Berman-Simon bill rather than the 590,000 figure of the Kennedy-Simpson bill.

At this point I would like to state that the family-related categories should have their own cap on the number of visas allotted. If Congress feels that a cap should be established, so be it; but said cap should be established solely on the consideration of human rights, not on consideration of economic or other conditions.

GOAL II - INCREASE NUMBER OF VISAS TO PERSONS WITH SKILLS SERVING THE NATIONAL INTEREST

The cap or number of visas allocated to the labor-related and independent immigrants category should be determined by economic, labor, social and ecological conditions. So that the number allocated can be greater in times of expansion and smaller in times of recession.

In order to make this concept operable, substantial modifications have to be made in the area of "labor certification". The present labor certification procedures are not achieving the purposes they were intended to achieve.

The primary difficulty is the laborious procedure which at times requires years before an application is processed and a number becomes available. An employer cannot wait this long to fill his pressing needs. The labor certification procedure should be simple enough to allow an application to be processed in a reasonable length of time. If it can be done for the growers of the West and Southwest, it can be done for all employers.

The certification should also be based on a regional rather than national test of labor availability. Blanket certification should be established also for job categories where a need is ascertained in a region. Unreasonable labor market tests, where the outcome is a foregone conclusion, ought to be eliminated.

Finally, we purposely are not making a distinction between highly skilled (current third preference) and other needed labor (current sixth preference). There may be arguments for introducing preferences of some sort to distribute the labor related visas.

GOAL III - TO CREATE MORE DIVERSITY IN OUR IMMIGRATION FLOW

This takes us now to comment on the "Independent Category" as envisioned in S.358.

The establishment of an independent category seems at first a welcomed fresh idea that offers the possibility of the realization of the American dream for young, hardworking, educated and ambitious people who would otherwise be unable to qualify under the family or labor-related categories. (This opportunity, however, should be given to all potential candidates without favoritism. The "English" factor in S.358 is not acceptable.)

But if at first it is a welcomed concept, the enthusiasm it engenders quickly disappears when the issue is confronted with reality. If we had an unlimited number of visas available, the idea of giving an ambitious "perfect stranger" the opportunity to make his contribution to this country would be most welcome. But in view of the fact that we always seem to be unable to have sufficient numbers to satisfy the imperative demands in the relatives categories, I think you should abandon the luxury of creating the independent category. I cannot see the justification of dispensing visas by lottery to perfect strangers while keeping relatives on waiting lists for years.

I suspect that the independent category was conceived with the intent of favoring the traditional flow of European immigration. The "English" provision in the point system seems to suggest that the bill is geared to helping the Irish who have been particularly disadvantaged by the 1965 Act. Honorable as this intention may be, I am afraid this category will not solve their problems at all. There are far more Asiatics - young, skilled, educated and fluent in English - than there are Irish in Ireland. And, in point of fact, even if you count together the Irish, the Italians, the Portuguese and the Greeks, they will still be unable to compete, numberwise, with the number of potential immigrant candidates from Asia. The peoples of the Asia-Pacific triangle well-deserve to reap the benefits of the 1965 Act. They were for far too long horribly discriminated against, and we were on the front line in the fight for the repeal of the old law. We want the Asiatics to continue to participate in the benefits of the law; we claim the same fairness of treatment for our potential immigrants from Europe.

THE EUROPEAN CASE

The European case must be dealt with. In pre-1965 European immigration constituted over 75% of the total number. At present, it represents 9%. On the other hand, two regions of the world (Asia and South America) are using 85% of the visas. The imbalance is unacceptable. It is hard to believe that the authors of the 1965 Act intended or even anticipated these results.

These results to all intents and purposes constitute a discrimination in reverse. The 1965 Act came into being in order to bring some fairness into the sharing of immigrant visas by all countries of the world, irrespective of national origins. In point of fact the theoretically ideal system of one-world ceiling on a first-come first-served basis resulted in the fact that the traditional European immigration was drastically disadvantaged. Fairness now demands that the course be corrected in order to effect a balance of justice in the distribution of visas, thus achieving the desired "diversity" in our immigration flow.

Fairness in the distribution of visas and consequently balanced diversity of immigrants into our country cannot be achieved unless we institute in our law a mechanism which will set up a fair competition in the race for visa numbers.

REGIONAL CEILINGS

In an attempt to fashion a fair and balanced law, the following proposal is being offered as the only practical solution: the establishment of a world-wide ceiling or cap of visas (except for the immediate relatives) with a break-down of regional ceilings, in order to avoid - as it now happens - that a few countries in one or two regions preempt an unreasonable amount of visas to the detriment of the rest of the countries.

Once the world-wide ceiling is established, a regional sub-ceiling should also be imposed, so that no one region will be allowed to use, say, more than one-fourth or one-third of the world-wide ceiling. (The actual determination of the amount of the regional ceiling should be reached by experts by computing various factors: population of the region, ethnic population of that region living in the United States, actual and potential demand, political implications, etc.).With the stipulation that if visas are not used up in the current fiscal year, they will be returned to a pool to be made available to clear backlogs in heavier oversubscribed countries in the following fiscal year.

Some may find this proposal, at first sight at least, a return to the "national origins" concept with all the implications of discrimination and racism we sought to eradicate with the 1965 Act. We who were in the forefront in the fight against that system would never support a return to it any form.

There is a substantial difference between the "national origins" concept and the regional ceiling concept. The "National Origins" system was tainted at the source: it was an attempt to favor some countries and to exclude others. The regional ceiling system, instead, is meant to distribute visas evenly and fairly to qualifying candidates the world over and to prevent that eventual problems of a few countries may be imposed on the rest of the world.

The regional ceiling, after all, is nothing but an extension of the per-country ceiling which Congress in its wisdom instituted in the 1965 Act. As the per-country-ceiling was conceived to prevent one country from pre-empting an unreasonably great number of visas from other countries, the regional ceiling protects the vast majority of the countries of the world from an unfair competition of few countries in two regions of the world.

Another idea would also be a regional floor, which would ensure again a balanced distribution the world over. However, the idea of a floor is less acceptable as it denotes an unsavory protectionism of "favorite" countries.

We believe that the regional ceiling is the only practical way to ensure diversity in our immigration flow.

○